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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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	CSC			CSC
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	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.

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

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

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Navy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Positions of Student Operating Room Technician for temporary, part-time, or intermittent employment in U.S. Navy facilities are excepted under Schedule A because it is not practicable to examine for them. The positions will be occupied by students who are enrolled in an approved operating room technician program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351-54. Employment under this authority may not exceed 1 year.

EFFECTIVE DATE: May 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3108(a)(6) is added as set out below:

§ 213.3108 Department of the Navy.

(a) *General.* * * *

(6) Positions of Student Operating Room Technician for temporary, part-time or intermittent employment in U.S. naval regional medical centers and hospitals, when filled by students who are enrolled in an approved operating room technician program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351-54. Employment under this authority may not exceed 1 year.

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218)

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

[FR Doc. 78-15725 Filed 6-8-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Farm Credit Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the title of the Schedule C position of Deputy Governor, Finance and Research to that of Deputy Governor, Finance because the position is no longer responsible for research activities.

EFFECTIVE DATE: May 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Hugh A. Strehle, Civil Service Commission, 202-632-4625.

Accordingly, 5 CFR 213.3343(c) is changed as set out below:

§ 213.3343 Farm Credit Administration.

* * * * *

(c) Deputy Governor, Finance.

* * * * *

(5 U.S.C. 3301, 3302; E.O. 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. 78-15726 Filed 6-8-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Securities and Exchange Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Up to three positions at grades GS-13 through 15 are expcepted under schedule A when filled by persons selected under SEC's Management Fellows Program because it is impracticable to examine for positions filled under this program.

EFFECTIVE DATE: May 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3130(e) is added as set out below:

§ 213.3130 Securities and Exchange Commission.

* * * * *

(e) Positions at grades GS-13 through 15, when filled by persons selected under the SEC Management Fellows Program. No more than three positions may be filled under this authority at any one time. An employee may not serve under this authority longer than two years unless selected under provisions set forth in the Intergovernmental Personnel Act (IPA), 5 U.S.C. § 3372(b)(2).

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

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

[FR Doc. 78-15724 Filed 6-8-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Thirty-eight positions in the Redwood National Park, Calif., needed for rehabilitation of the park are excepted under Schedule A because the requirement in Pub. L. 95-250 that preference in filling these positions be given to persons adversely affected by expansion of the park makes examination for the positions impracticable.

EFFECTIVE DATE: May 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin 202-632-4533.

Accordingly, 5 CFR 213.3112(f)(3) is added as set out below:

§ 213.3112 Department of the Interior.

* * * * *

(f) *National Park Service.* * * *

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, Calif., which are needed for rehabilitation of the park, as provided by Pub. L. 95-250.

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

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

[FR Doc. 78-16038 Filed 6-8-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Defense, Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Defense and the Department of Energy because they are confidential in nature.

EFFECTIVE DATES: Department of Defense—May 31, 1978; Department of Energy—March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(44) is added and 213.3331(a)(7) is amended as set out below:

§ 213.3306 Department of Defense.

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

(44) One Joint Chiefs of Staff Representative for the Comprehensive Test Ban Treaty Negotiations.

* * * * *

§ 213.3331 Department of Energy.

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

(7) Three Assistants to the Secretary.

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

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

[FR Doc. 78-16039 Filed 6-8-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Justice, Department of Labor, Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Justice, Department of Labor, and the Department of Housing and Urban Development because they are confidential in nature.

EFFECTIVE DATE: May 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3310(i)(4) is added and 213.3315(a)(56) and 213.3384(a)(69) are amended as set out below:

§ 213.3310 Department of Justice.

* * * * *

(i) *Drug Enforcement Administration.* * *

(4) One Special Assistant to the Administrator.

* * * * *

§ 213.3315 Department of Labor.

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

(56) Two Special Assistants to the Assistant Secretary for Employment and Training.

* * * * *

§ 213.3384 Department of Housing and Urban Development.

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

(69) Two Special Assistants to the Assistant to the Secretary for Public Affairs.

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

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

[FR Doc. 78-16040 Filed 6-8-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

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

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service (APHIS).

ACTION: Final rule.

SUMMARY: This amendment adds two new sections to the regulations under the Virus-Serum-Toxin Act regarding the requirements for purity, safety, potency, and efficacy to be met by all biological products containing Salmonella Choleraesuis Bacterin and Salmonella Dublin Bacterin. At the present time, such requirements appear in each Outline of Production for these products filed with Veterinary Services. This amendment makes uniform requirements available to all licensees.

EFFECTIVE DATE: This amendment becomes effective July 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, Md. 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: Standard requirements consist of test methods, procedures, and criteria established by Veterinary Services for evaluating biological products for purity, safety, potency, and efficacy. Until such Standard Requirements are developed by Veterinary Services and are codified in the regulations (9 CFR Part 113), the test methods, procedures, and criteria to be used in the evaluation of a product are developed by the licensee and are written into the applicable Outline of Production which is required to be filed with Veterinary Services.

When Standard Requirements for a biological product have been developed by Veterinary Services, they are proposed for codification in the regulations. Such codification assures uniformity and general availability of such Standard Requirements to all licensees and to the general public.

On February 17, 1978, a notice of a proposed amendment of Part 113 was published in the FEDERAL REGISTER in 43 FR 6958.

The proposed changes contained the Standard Requirements for evaluating

all licensed products containing Salmonella Choleraesuis Bacterin and Salmonella Dublin Bacterin. Comments regarding the proposal were solicited and two responses were received. One response was favorable to the proposal as written. The other response contained suggestions that were considered appropriate and constructive. These suggestion have been incorporated in part in this final rule and are explained in the discussion of changes below.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice is hereby adopted with the following exceptions:

The safety test in §113.107(b) is changed to require that the subcutaneous route of inoculation be used when this product is in combination with Pasteurella Multocida Bacterin. This change correlates safety test procedures for such combination products with safety test requirements for Pasteurella Multocida Bacterin in § 113.106(b). The suggestion that this change also be incorporated in § 113.108(b) was rejected as unnecessary, since Salmonella Dublin Bacterin is not licensed in combination with Pasteurella Multocida Bacterin.

Part 113 is amended by adding two new sections to read:

§ 113.107 Salmonella Choleraesuis Bacterin.

Salmonella Choleraesuis Bacterin shall be prepared from a culture of *Salmonella choleraesuis* which has been inactivated and is nontoxic. Each serial of biological product containing *Salmonella choleraesuis* fraction shall meet the applicable requirements in 9 CFR 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as provided in 9 CFR 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in 9 CFR 113.33(b).

The subcutaneous route shall be used when the product is in combination with Pasteurella Multocida Bacterin.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the mouse test provided in this paragraph. A mouse dose shall be ⅒ of the least dose recommended on the label for other animals which shall not be less than 2 ml.

(1) The ability of the bacterin being tested (Unknown) to protect mice shall be compared with a Standard Reference Bacterin (Standard) which is either supplied by or acceptable to Veterinary Services.

(2) At least three fivefold dilutions shall be made with the Standard and the same fivefold dilution shall be made for each Unknown. The dilutions shall be made in Phosphate-Buffered Saline.

(3) For each dilution of the Standard and each dilution of an Unknown, a group of at least 20 mice, each weighing 16 to 22 grams, shall be used. Each mouse in a group shall be injected intraperitoneally with one mouse dose of the appropriate dilution. Each mouse shall be revaccinated on day 14, using the same schedule.

(4) Each of 20 vaccinated mice per group shall be challenged intraperitoneally 7 to 10 days after the second vaccination with a 0.25 ml dose containing 10-1,000 mouse LD_{50} as determined by titration of a suitable culture of *Salmonella choleraesuis.* All survivors in each group of mice shall be recorded 14 days postchallenge.

(5) Test for valid assay: At least two dilutions of the Standard shall protect more than 0 percent and two dilutions shall protect less than 100 percent of the mice injected. The lowest dilution of the Standard shall protect more than 50 percent of the mice. The highest dilution of the Standard shall protect less than 50 percent of the mice.

(6) The relative potency (RP) of the Unknown is determined by comparing the 50 percent endpoint dilution (highest bacterin dilution protecting 50 percent of the mice) of the Unknown with that of the Standard by the following formula:

RP=Reciprocal of 50 percent endpoint dilution of Unknown/Reciprocal of 50 percent endpoint dilution of Standard.

(7) If the RP of the Unknown is less than 0.50, the serial being tested is unsatisfactory.

(8) If the 50 percent endpoint of an Unknown in a valid test cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested: *Provided,* That if the Unknown is not retested or if the protection provided by the lowest dilution of the Standard exceeds the protection provided by the lowest dilution of the Unknown by 6 mice or more, the serial being tested is unsatisfactory.

(9) If the 50 percent endpoint of an Unknown in a valid test cannot be calculated because the highest dilution exceeds 50 percent protection, the Unknown is satisfactory without additional testing.

§ 113.108 Salmonella Dublin Bacterin.

Salmonella Dublin Bacterin shall be prepared from a culture of *Salmonella dublin* which has been inactivated and is nontoxic. Each serial of biological product containing *Salmonella dublin* fraction shall meet the applicable requirements in 9 CFR 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as provided in 9 CFR 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in 9 CFR 113.33(b).

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the mouse test provided in this paragraph. A mouse dose shall be ⅒ of the least dose recommended on the label for other animals which shall not be less than 2 ml.

(1) The ability of the bacterin being tested (Unknown) to protect mice shall be compared with a Standard Reference Bacterin (Standard) which is either supplied by or acceptable to Veterinary Services.

(2) At least three tentold dilutions shall be made with the Standard and the same tenfold dilutions shall be made for each Unknown. The dilutions shall be made in Phosphate-Buffered Saline.

(3) For each dilution of the Standard and each dilution of an Unknown, a group of at least 20 mice, each weighing 16 to 22 grams, shall be used. Each mouse in a group shall be injected intraperitoneally with one mouse dose of the appropriate dilution. Each mouse shall be revaccinated on day 14, using the same schedule.

(4) Each of 20 vaccinated mice per group shall be challenged intraperitoneally 7 to 10 days after the second vaccination with a 0.25 ml dose containing 1,000-100,000 mouse LD_{50} as determined by titration of a suitable culture of *Salmonella dublin.* All survivors in each group of mice shall be recorded 14 days postchallenge.

(5) Test for valid assay: At least two dilutions of the Standard shall protect more than 0 percent and two dilutions shall protect less than 100 percent of the mice injected. The lowest dilution of the Standard shall protect more than 50 percent of the mice. The highest dilution of the Standard shall protect less than 50 percent of the mice.

(6) The relative potency (RP) of the Unknown is determined by comparing the 50 percent endpoint dilution (highest bacterin dilution protecting 50 percent of the mice) of the Unknown with that of the Standard by the following formula:

RP=Reciprocal of 50 percent endpoint dilution of Unknown/Reciprocal of 50 percent endpoint dilution of Standard.

(7) If the RP of the Unknown is less than 0.30, the serial being tested is unsatisfactory.

(8) If the 50 percent endpoint of an Unknown in a valid test cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested. *Provided,* That if the Unknown is not retested or if the protection provided by the lowest dilution of the Standard exceeds the protection provided by the lowest dilution of the Unknown by 6 mice or more, the serial being tested is unsatisfactory.

(9) If the 50 percent endpoint of an Unknown in a valid test cannot be calculated because the highest dilution exceeds 50 percent protection, the Unknown is satisfactory without additional testing.

(21 U.S.C. 151 and 154, 37 FR 28477, 28646, 38 FR 19141.)

Done at Washington, D.C., this 6th day of June 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Execvutive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-16170 Filed 6-8-78; 8:45 am]

[3410-34]

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service (APHIS).

ACTION: Final rule.

SUMMARY: This amendment lowers the minimum virus titer for three live virus vaccines. This action is taken to improve the safety characteristics of the products without affecting their efficacy. One minor change is made in the requirement for titration of Marek's Disease Vaccine, which does not affect the validity of the results.

EFFECTIVE DATE: This amendment becomes effective July 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, Md. 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: The present requirements for Feline Panleukopenia Vaccine, Canine Hepatitis Vaccine, and Canine Distemper Vaccine, Ferret Avirulent, include minimum virus titers of $10^{3.0}$ throughout the dating period, regardless of the antigenicity and stability of the vaccines. It has been determined that the safety characteristics of these products can be improved by reducing the minimum virus titer requirements to $10^{2.5}$ throughout dating.

The requirements for Marek's Disease Vaccine include the statement "shall be incubated at 37° C for 3 days before preparation for use in the titration test." As worded, this requirement has been applied to vaccine prior to release and to vaccine after release. The requirement that vaccine which has been released for sale must be incubated prior to the titration test is considered unnecessarily severe. This amendment revises the virus titer requirements by limiting the incubation requirement to testing for release.

On April 4, 1978, a notice of the proposed amendment to Part 113 was published in the FEDERAL REGISTER at 43 FR 14042.

Comments on this proposal were solicited and four responses were received. Three responses were favorable to the proposal as written. One response contained comments indicating concern that limiting the incubation requirement for Marek's Disease Vaccine to testing for release would result in the marketing of lower potency product with inferior stability. Considering the fact that incubation of the product is still required when determining titer for release, and that a satisfactory titer of virus is required throughout dating, this concern is not justified.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice is hereby adopted.

1. § 113.139 would be amended by revising paragraph (d)(2) to read:

§ 113.139 Feline Panleukopenia Vaccine.

* * * * * *

(d) * * *

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{2.5}$ ID_{50} per dose.

2. § 113.140 would be amended by revising paragraph (d)(2) to read:

§ 113.140 Canine Hepatitis Vaccine.

* * * * * *

(d) * * *

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{2.5}$ $TCID_{50}$ per dose.

3. § 113.141 would be amended by revising paragraph (d)(2) to read:

§ 113.141 Canine Distemper Vaccine, Ferret Avirulent.

* * * * * *

(d) * * *

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{2.5}$ ID_{50} per dose.

4. § 113.165 would be amended by revising paragraph (d)(3) to read:

§ 113.165 Marek's Disease Vaccine.

* * * * * *

(d) * * *

(3) *Potency test.* The samples shall be titrated in a cell culture system or by any other titration method acceptable to Veterinary Services. Vaccine samples of desiccated vaccine shall be incubated at 37° C for 3 days before preparation for use in the titration test required to be performed prior to the release of a product. A satisfactory serial or subserial shall contain at least 1,500 plaque forming units per dose at release and maintain at least 1,000 plaque forming units when tested without incubation at any time before the expiration date.

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

Done at Washington, D.C., this 6th day of June 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this

document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-16169 Filed 6-8-78; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION[1]

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1978 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached are the Interpretations issued by the Office of the General Counsel of the Department of Energy under 10 CFR part 205, Subpart F, during the period May 1, 1978, through May 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of the General Counsel, Department of Energy, 12th and Pennsylvania Avenue NW., Room 1121, Washington, D.C. 20461, 202-566-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER in accordance with the editorial and classification criteria set forth in 42 FR 7923, February 8, 1977, as modified in 42 FR 46270, September 15, 1977.

These Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The Interpretations published below are not subject to appeal. However, any person aggrieved by an Interpretation may submit a petition for reconsideration pursuant to § 205.85(f). The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the Notice first cited above.

Issued in Washington, D.C., June 6, 1978.

WILLIAM P. DAVIS,
Deputy Director
of Administration.

APPENDIX

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INTERPRETATION 1978-22

To: Tristate Oil & Asphalt Sales Inc.
Date: May 1, 1978.
Rule Interpreted: § 212.31.
Code: GCW-PI—Definition of refiner, reseller, retailer.

FACTS

Tristate Oil & Asphalt Sales, Inc. ("Tristate") of Spokane, Wash., is a small, independent processor of petroleum base stocks and unfinished oils. It produces asphaltic products and residual fuel oils.

Tristate is primarily engaged in the production of various grades of asphalt and road oil, with 55 to 65 percent of total sales in the last 4 years derived from the sale of asphaltic products. Asphalt and road oil, along with petroleum wax and petroleum coke, have been excluded from the scope of price controls since the expiration of the Economic Stabilization Program on April 1, 1974.

Tristate essentially combines heavy asphalt base stocks with unfinished oils and blending or emulsifying agents to produce a variety of grades of liquid and cement asphalt. These products must meet the particular technical specifications required by purchasers, such as State and municipal authorities and paving contractors.

Tristate's operation also includes the production and sale of residual fuel oil, which was a "covered product" under the petroleum price regulations in 10 CFR Part 212 until decontrolled effective June 1, 1976. Due to increased transportation costs and a shortage of tank cars, Tristate stopped purchasing and reselling residual fuel oil in April 1974. Instead, Tristate built substantial storage and processing facilities in order to improve its ability to provide the particular product needs of its customers. The firm processes reduced crude oil and other unfinished products to produce such residual fuels as Bunker C, No. 4, No. 5, and No. 6, according to the needs of various commercial and small industrial customers.

Processing by Tristate involves the use of steam, circulating pumps, settling tanks, high speed mixers, the blending of 1007 dust oil, wood treating oil, diesel oil, stove oil, and coker naphtha. Physical changes in the products processed include alteration of their viscosity, distillation curve, and API gravity. In some cased the BTU content may be changed, the flash point increased or decreased, or the pour point lowered. Chemical changes are made through heating and blending and involve the altering of sulfur content and control of carbon residue and vanadium.

ISSUE

Whether Tristate should be deemed a "refiner," subject to the price regulations applicable to refiners in 10 CFR Part 212, Subpart E, or a reseller/retailer, subject to the price regulations applicable to resellers and retailers in 10 CFR Part 212, Subpart F, with respect to its sales of residual fuel oil prior to June 1, 1976.

INTERPRETATION

Section 212.31 defines "refiner" as follows:

"'Refiner' means a firm * * * which refines covered products or blends and substantially changes covered products, or refines liquid hydrocarbons from oil and gas field gases, or recovers liquefied petroleum gases incident to petroleum refining and sells those products to resellers, retailers, reseller-retailers or ultimate consumers."

"Reseller" is defined in § 212.31 as:

"[A] firm * * * which carries on the trade or business of purchasing covered products, and reselling them without substantially changing their form to purchasers other than ultimate consumers."

The definition of "retailer" in § 212.31 is the same as that of "reseller" except that resale of covered products is to ultimate consumers.

The key difference between refiners and resellers/retailers under the petroleum price regulations is the test of "substantial change in form." This phrase originated in the Phase II price controls under the Economic Stabilization Act of 1970 and was later carried forward through the Phase IV petroleum price regulations into the current regulations in 10 CFR Part 212.[2]

The "substantial change in form" test was used under the Economic Stabilization Program to distinguish wholesalers and retailers from manufacturers. Wholesalers and retailers were defined as entities engaged in the business of purchasing and reselling property "without substantially changing

[1] EDITORIAL NOTE: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

[2] The Phase IV petroleum price regulations contained the same definition of "refiner" as the current regulations. 6 CFR 150.352.

the form of that property." [3] This contrasts with manufacturing which, due to conversion of raw materials into finished products or the use of other fabricating or assembly processes, nearly always involves a "substantial change in form."[4]

The definitions of "wholesaler" and "retailer" under the Phase II-Phase IV general regulations were the regulatory antecedents of, and are essentially the same as, the definitions of "reseller" and "retailer" under current Mandatory Petroleum Price Regulations. As noted above, a "reseller" or a "retailer" is an entity engaged in the business of purchasing and reselling covered products "without substantially changing their form." Refiners, who fell within the broad definition of "manufacturer" in Phase II, [5] continue under current regulations to be classified under a definition which applies the "substantial change in form" test.

As noted, "refiner" is defined in § 212.31 as a firm which "refines covered products or *blends and substantially changes* covered products, or *refines* liquid hydrocarbons * * * or *recovers* liquefied petroleum gases *incident to petroleum refining* and sells those products * * *" (emphasis added)." It might appear from this definition that the "substantial change" test is not applicable to all of the activities described in the definition of "refiner." However, the processing of crude oil and liquid hydrocarbons to produce refined petroleum products and residual fuel oil, and the recovery of LPG's incident to petroleum processing, necessarily involve a substantial change in form. It was therefore necessary to include the explicit words "substantially changes" only to make it clear that "blending" would constitute refining only if accompanied by a substantial change in form.

It may be concluded, therefore, that a "refiner" is a firm which substantially changes the form of covered products and sells those products, while a "reseller" or "retailer" is a firm which purchases and resells covered products without substantially changing their form. It may also be concluded, from the inclusion of the "blends and substantially changes" alternative in the definition of "refiner," and the use of the words "covered products," that refining does not necessarily involve the refining of crude oil or the use of a refinery distillation unit or fractionating tower, and that a blending process which involves a substantial change in the form of any covered product, coupled with sale of covered products, may constitute refining for purposes of 10 CFR Part 212.

The question of what constitutes "substantial change" is not directly addressed by the regulations. However, the term "unfinished oils" is defined in § 212.31 to mean "all oils requiring further refining, i.e., any operation except mechanical blending or use as an additive." By defining "further refining" in a manner which excludes "mechanical blending," this definition suggests that a substantial change in form would not normally be achieved merely by physical mixing of related products. This view appears to be supported by *Albina Fuel Co.*, Interpretation 1975-74, 42 FR 23767 (May 10, 1977), where a retailer briefly engaged in a practice sometimes known as "truck blending." The retailer loaded appropriate proportions of light (PS 300) and industrial weight (PS 400I) residual fuel oil in its delivery trucks. The fuels would become sufficiently mixed, merely through loading and transportation, to permit the refiner to sell the liquid as medium (PS 400M) residual fuel. The issue addressed by the Interpretation was whether the costs associated with such blending were product or nonproduct costs under the reseller/retailer regulations. The Interpretation found that these costs were retailer nonproduct costs. There was no suggestion that the activity constituted refining.

It appears, therefore, that the mere mechanical blending of closely related grades of finished petroleum products, such as regular and premium gasoline, No. 1 and No. 2 diesel fuel, or PS 300 and PS 400I residual fuel oils, to obtain a standard intermediate-grade finished product, normally does not constitute a change in form sufficient to constitute refining when undertaken in an otherwise clearly resale/retail context. By comparison, the residual fuel oil processing operations undertaken by Tristate appear to involve significantly more substantial changes which, in the context of Tristate's overall operation, constitute refining as defined in § 212.31. There are a number of factors which support this conclusion.

First, Tristate's business is mainly concerned with manufacturing various grades of finished asphalt products, tailored to the customer's individual specifications, from unfinished petroleum based stocks and various other chemical or emulsive ingredients. This clearly involves a "substantial change in form" of the base materials into finished products rather than mere reselling or retailing. The production of residual fuel oils by Tristate, sometimes using the same asphaltic base stocks used to produce finished asphalt products, is a secondary or subrelated activity. Thus, Tristate's residual fuel oil activities, however characterized, are undertaken in the primary context of the manufacture or refining of asphalt products.

Second, Tristate uses unfinished base materials, such as reduced crude oil and asphalt base stocks, to produce finished residual fuel oils. These base materials must be carefully processed to obtain the proper Btu content, sulfur content, viscosity, API gravity, carbon residue, and pour point characteristics appropriate for each grade of residual fuel oil. These characteristics are significantly altered in Tristate's production processes. Although reduced crude oil and other unfinished petroleum stocks may be burned as residual fuels without further processing, this fact does not render the production by Tristate of finished products meeting the viscosity and other specifications of No. 4, No. 5, or No. 6 residual fuel oil any less a substantial change in form over the base materials.

Third, unlike mere "truck blending" of standard finished products, Tristate's operation includes the use of unfinished base stocks of varying API and sulfur content, the application of steam to affect miscibility, the admixture of various secondary blending ingredients with the base stocks, the use of mixing and pumping equipment, and technical control of product characteristics by laboratory testing methods. These factors indicate that the processes used by Tristate are more than mere mechanical blending.

For all of the foregoing reasons, it is concluded that Tristate's activities are deemed to qualify as "refining" within the meaning of § 212.31, and that Tristate is subject to the price regulations applicable to refiners in 10 CFR Part 212, Subpart E, with respect to its sales of residual fuel oil prior to June 1, 1976.

The determination that Tristate "substantially changes" as well as blends covered products is based upon the unique factual situation presented in this case. Other firms which blend covered products do not necessarily "substantially change" them, by virtue of the blending operation. In doubtful cases DOE will determine whether a firm is more appropriately classifed as a refiner or reseller/retailer based on the particular facts and circumstances in each case.

Each firm must be categorized for price control purposes under one, and only one, of the regulatory subparts in 10 CFR Part 212, even though the firm concerned is engaged in an activity which might appear to be atypical or to present mixed elements, and even though the result might not be consistent with more restrictive industry concepts. Thus, Tristate is deemed to fall within the broad regulatory definition of refiner, for purposes of price controls, even though it may not qualify as a refiner for other purposes.

This Interpretation relates only to the status of Tristate prior to June 1, 1976, under the petroleum price regulations. It does not constitute an interpretation that Tristate was or is a refiner or refinery for purposes of the entitlements program, the buy-sell program, the oil import program, or any other program involving purchase or supply benefits or obligations accruing to refiners or refineries. Since Tristate purchases only unfinished oils or products, and not crude oil as such, it would not appear to be subject to crude oil allocation programs.

INTERPRETATION 1978-23

To: Jewell Oil Co., Inc.
Date: May 12, 1978.
Rules Interpreted: 10 CFR 211.9(a)(2)(i); 211.25.
Code: GCW-AI—Supplier/Purchaser Relationship.

FACTS

Jewell Oil Co., Inc. ("Jewell") is an independent distributor of motor gasoline and No. 1 and No. 2 fuel oils in and around Cobb, Wis. Prior to and during 1972 Union Oil Co. of California ("Union") supplied Jewell with these products. In July 1974 Union informed Jewell that, pursuant to 10 CFR 211.25, South West Wisconsin Petroleum, Inc. ("South West") would supply Jewell with premium and unleaded gasolines and NO. 1 and No. 2 fuel oils.[6] At that time, South West indicated that it could not supply Jewell with regular motor gasoline. Because of a contract dispute, South West terminated its supply relationship with Jewell in April 1978.

Under the Mandatory Petroleum Allocation Regulations, Union, Jewell, and South

[3] 6 CFR 300.5 (Phase II); 6 CFR 150.31 (Phase IV).

[4] *See* definitions of "manufacturer," 6 CFR 300.5 (Phase II), and "manufacturing," 6 CFR 150.31 (Phase IV).

[5] The definitions of "manufacturer" in Phase II and "manufacturing" in Phase IV specifically included "the production or refining of oil from wells," as well as other mining and refining activities. 6 CFR 300.5; 6 CFR 150.31.

[6] No. 1 and No. 2 fuel oils were exempted from the Mandatory Petroleum Allocation and Price Regulations on July 1, 1976. 41 FR 24516, 24518 (June 16, 1976). See also 10 CFR 210.35.

West are "suppliers" as that term is defined in 10 CFR 211.51. In addition, Jewell and South West are also "wholesale purchaser-resellers" as set forth in 10 CFR 211.51. Union, Jewell, and South West are all subject to the provisions of 10 CFR 211.9, regarding supplier/purchaser relationships.

ISSUE

If a supplier has arranged to supply a purchaser through a substitute supplier pursuant to 10 CFR 211.25 and the substitute supplier terminates its relationship with the purchaser, is the original supplier still obligated to maintain a supplier/purchaser relationship with the purchaser in accordance with 10 CFR 211.9?

INTERPRETATION

It has been determined that the supplier/purchaser relationship between Union and Jewell was not terminated by Union's designation of South West as a substitute supplier. Thus, pursuant to § 211.9 Union must maintain its supplier/purchaser relationship with Jewell regardless of South West's subsequent decision to cease supplying allocated products to Jewell.

Under the Mandatory Petroleum Allocation Regulations, base period supplier/purchaser relationships for certain covered products are required to be maintained. Section 211.9 states in part:

"(a) *Supplier/wholesale purchaser relationship.* (1) Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part.

"(2) (i) Unless otherwise provided in this part or directed by FEO, the supplier/wholesale purchaser-reseller relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be waived or otherwise terminated without the express written approval of FEO.

"(ii) Unless otherwise provided in this Part or directed by FEO, the supplier/wholesale purchaser-consumer relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be revised or otherwise terminated except that any such relationship may be terminated by the mutual consent of both parties."

Therefore, § 211.9 does not permit the termination of the supplier/purchaser relationship between a supplier and a wholesale purchaser-reseller without the written approval of the Department of Energy ("DOE"), a successor agency to the FEO.

Nevertheless, the requirement that a supplier maintain its base period supplier/purchaser relationships throughout the duration of the Mandatory Petroleum Allocation Program was somewhat qualified by the provisions of § 211.25(a). That section permits a supplier to arrange for substitute suppliers to provide the allocated product to a particular purchaser, and states in pertinent part:

"Any supplier may arrange to supply any purchaser which is entitled to receive an allocation from its through another supplier or suppliers in accordance with normal business practices. The purchaser shall, however, be entitled to receive the same amount of an allocated product from the substituted supplier that it would receive if it were directly supplied by the original supplier using that supplier's allocation fraction."

However, although § 211.25 does permit a supplier to fulfill its supply obligation for a particular purchaser through a substitute supplier, it does not abrogate the supplier's continuing obligation to assure that the base period purchaser continues to receive the allocated product. Ruling 1974-3, 39 FR 44467 (February 4, 1974), sets forth the continuing supply obligation envisioned in the Allocation Regulations:

"As a general proposition, the Regulations require a supplier to provide an allocation to each of its historical wholesale purchasers during the base period * * *. No change in such purchaser/supplier relationships is contemplated by the Regulations. However, with respect to base period wholesale purchasers who are not its current purchasers, the Regulations require the supplier to take immediate action to provide for such base period purchasers' allocation pursuant to Subpart A of the Regulations. Under Section 211.25, a supplier may arrange to supply its base period purchasers' allocations either directly or through appropriate exchange agreements with other suppliers in accordance with normal business practices."

Thus, a base period supplier, such as Union, must maintain its supply obligation to a base period purchaser, such as Jewell, even if a substitute supplier is chosen to carry out that supply oligation.

This primary supply relationship between Union and Jewell cannot be terminated without the express approval of the DOE, as set forth in § 211.9(a)(2)(i). Accordingly, Union may be relieved of its supply obligations to Jewell *only* by the DOE pursuant to § 211.9, and Union's substitution of South West as a supplier under § 211.25 did not abrogate its primary supplier/purchaser relationship with Jewell. This result is consistent with the goals of the Emergency Petroleum Allocation Act of 1973 ("EPAA"), as amended, Pub. L. No. 93-159 (November 27, 1973).[7] The EPAA provides in part for the "preservation of an economically sound and competitive petroleum industry * * * [and] equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry * * *." EPAA § 4(b)(1) (D) and (F). Thus, the EPAA requires that Jewell be afforded an assured source of the refined petroleum products needed to carry out its business. Although suppliers have been granted the flexibility by the DOE to meet their supply obligations through the substitution provisions of § 212.25, such latitude cannot be used to frustrate the intent of the regulatory program or to diminish the continued viability of the Allocation Program.

In the present case, Union was the base period supplier of No. 1 fuel oil, No. 2 fuel oil and various grades of motor gasoline to Jewell. No. 1 and No. 2 fuel oils have been exempted from the Mandatory Petroleum Allocation and Price Regulations since July 1, 1976. Thus, Union no longer is required to supply those products to Jewell. However, all grades of motor gasoline are presently subject to the provisions of both Part 211 and Part 212. Therefore, since South West has declined to continue as Jewell's substitute supplier for motor gasoline, Union must again fulfill that obligation and continue to supply Jewell with its allocation of motor gasoline.[8]

[7] 15 U.S.C. 751 *et seq.* (1976).

INTERPRETATION 1978-24

To: Nelson Oil Co.
Date: May 12, 1978.
Rules Interpreted: §§ 211.13(c), 211.13(f).
Code: GCW-AI—Certification; Adjustments to Base Period Use.

FACTS

Nelson Oil Co. (Nelson) is a Shell Oil Co. (Shell) jobber of motor gasoline, and, as such, is a wholesale purchaser-reseller as defined in 10 CFR 211.51, and is subject to the Mandatory Petroleum Allocation Regulations. Nelson and Shell have a supplier/purchaser relationship as set forth in 10 CFR 211.9. Pursuant to the provisions of 10 CFR 211.12, the Department of Energy (DOE) (and its predecessor the Federal Energy Administration (FEA)) has on occasion assigned to Nelson additional base period wholesale purchasers. In order to supply these additional purchasers with motor gasoline, Nelson has certified to, and received upward adjustments to, its base period use from Shell in amounts equal to the new allocation entitlements, as set forth in § 211.13(c).

In accordance with the provisions of § 211.13, Shell requires that wholesale purchaser-resellers, such as Nelson, certify not only their increased supply obligations but also certify any downward adjustments to their supply obligations pursuant to § 211.13(f).

In its submission, Nelson proposes to treat § 211.13(f) as only requiring a downward certification of its adjusted base period allocation if the total volume of its supply obligations to all new wholesale purchasers assigned pursuant to § 212.12 declines.

Shell submitted comments concerning the Nelson application. In those comments Shell contends that § 211.13(f) requires a wholesale purchaser-reseller to submit to its supplier an application for a downward adjustment if its supply obligation to a newly assigned wholesale purchaser is terminated.

ISSUE

Where a wholesale purchaser-reseller has received an upward adjustment in its base period use to accomodate an assigned wholesale purchaser's supply requirements, is that wholesale purchaser-reseller required to submit an application for a downward adjustment to its base period use to reflect the termination or significant reduction of the assigned purchaser's supply requirements?

INTERPRETATION

For the reasons set forth below, it has been concluded that a wholesale purchaser-

[8] It should be noted that motor gasoline is allocated without regard to its different grades. 10 CFR 211.108(a). Jewell is, of course, free to purchase surplus motor gasoline from any supplier that has the product and that has complied with all of the applicable regulations regarding surplus product. See 10 CFR 211.10(g). Should Jewell choose to purchase motor gasoline from a supplier other than Union, the supplier/purchaser relationship with Union and the underlying obligation to supply Jewell will continue until it is expressly terminated with the permission of the DOE.

reseller that has received an upward adjustment to its base period use of a particular covered product based upon the DOE's assignment of a new wholesale purchaser, must comply with the downward certification provisions of § 211.13(f) if its supply obligation to that new wholesale purchaser is subsequently terminated or significantly reduced.

Section 211.13(c) requires a supplier to automatically increase its base period allocation to a wholesale purchaser-reseller, if the wholesale purchaser-reseller has been assigned to supply a new purchaser. That section provides:

"[A] wholesale purchaser-reseller shall be entitled to receive an adjustment to its base period use whenever (i) it is notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser * * * in an amount equal to the increases in the allocation entitlements or new allocation entitlements which the wholesale purchaser-reseller is to supply."

However, before obtaining an increase in its base period use, a wholesale purchaser-reseller must submit a certified application to its supplier pursuant to § 211.13(f). That section provides:

"Such application [for upward certification] shall contain a statement that increased allocations shall be used only for the purpose stated in the application, shall not be diverted for other uses; and that if its needs decline, the purchaser shall file an amended application for a downward adjustment to its base period use."

In its request for interpretation, Nelson maintains that § 211.13(f) requires a wholesale purchaser-reseller to submit an application for a downward adjustment only if its total supply obligation to a particular category of user is reduced. Nelson asserts that motor gasoline assigned to it for a particular new customer becomes a permanent part of its total adjusted base period use. Thus, if the new assigned customer ceases purchasing the motor gasoline from it, Nelson argues that the additional product becomes surplus which may be disposed of by Nelson to other firms which are within the same category of "uses" as the new assigned customers had been.[9]

Nelson's construction of § 211.13(f) is incorrect. In order to fully understand the purpose of § 211.13(f), its requirements must be viewed in light of § 211.13(c) and the entire scheme of the allocation program.

In the preamble adopting § 211.13(c), the FEA noted that under the new regulations, a wholesale purchaser-reseller would be entitled to an adjustment of its base period allocation for any new or increased allocation requirements resulting from an assignment order issued by the agency. 40 FR 48111 (October 14, 1975). An assignment order issued to a wholesale purchaser-reseller sets forth the assigned volume of covered product for the allocation period. This new "base period" use is determined with respect to the *particular* customer being assigned to the wholesale purchaser-reseller. Thus, the increased allocation of covered product obtained by the wholesale purchaser-reseller from its supplier pursuant to § 211.13(c) is directly related to the volume of product assigned to a specific customer set forth in the initial assignment order.

The provisions of § 211.13(c) are therefore complementary to § 211.13(f). That section provides not only for a downward adjustment to the firm's base period use if its needs decline, but also for a certification that the additional allocations required by the wholesale purchaser-reseller will be used only for the purpose stated in the application and will not be diverted for other uses. Because of the restrictions implicit in § 211.13(c), it is clear that the term "use" as employed in § 211.13(f) refers to the individual volumes of product allocated to each assigned new customer and not to broad categories of general uses, such as those described in § 211.10 or § 211.103 for purposes of assigning allocation fractions.

Consequently, since the upward certification provisions of § 211.13(f) clearly apply to individual allocations for each new assigned customer, the downward certification provisions of § 211.13(f) must also be applicable to adjustments to a wholesale purchaser-reseller's needs based upon the termination of or significant reduction in each new assigned customer's allocation requirements.

INTERPRETATION 1978-25

To: Basin, Inc.
Date: May 17, 1978.
Rules interpreted: 10 CFR 212.182, 212.183.
Code: GCW-PI—Crude oil resales, definition of transportation cost.

FACTS

Basin, Inc. (Basin) is a reseller of crude oil, and is subject to the crude oil reseller price rule, 10 CFR 212.183. That rule, a part of 10 CFR part 212, subpart L, became effective on January 1, 1978, and provides a new regulatory format for controlling the prices resellers may charge in sales of crude oil.

Under the new crude oil reseller price rule, as will be described in greater detail below, a crude oil reseller must calculate its overall monthly margin on sales of crude oil by computing its total lawful revenues and costs. One item in this computation is "transportation and gathering cost." Section 212.182 defines this cost as either a common carrier tariff actually paid for the transportation of crude oil, or the reseller's own actual cost of transporting the crude oil.

In its request for interpretation to the Department of Energy (DOE)[10] Basin notes that some resellers own or control a subsidiary or an affiliate which is a common carrier (a common carrier affiliate). Basin states that since the advent of the new crude oil reseller price rule, some of these firms are transferring or selling crude oil transportation facilities to their common carrier affiliates. These firms then include the common carrier tariff paid to their affiliate for the transportation of crude oil in computing their transportation and gathering cost. Because common carrier tariffs normally include a return on capital investment, use of the common carrier tariff in computing transportation and gathering cost can be expected to add a margin which represents this return on capital investment to the prices of crude oil resales.

Basin states that it has entered into negotiations to acquire a common carrier affiliate, but is hesitant to proceed further without guidance as to the treatment to be accorded a common carrier tariff paid to an affiliate for the transportation of crude oil. Accordingly, Basin seeks an interpretation of the definition of "transportation and gathering cost" to determine whether, in the event that it acquires a common carrier affiliate, it would be permitted to use the common carrier tariff paid to the affiliate for the transportation of crude oil, rather than the affiliate's actual transportation costs, to establish its prices for crude oil resales.

Notice of Basin's request for interpretation was published in the FEDERAL REGISTER to permit interested parties an opportunity to comment on the request.[11] 43 FR 11738 (March 21, 1978). Five comments were received, all of which were from firms who are engaged in the resale of crude oil. All five firms urged the DOE to conclude that a reseller with a common carrier affiliate is entitled to use the tariff it actually pays to its common carrier affiliate in calculating its transportation costs. The comments submitted, which contain much helpful information, have been carefully reviewed, and several points brought forward in those comments have been incorporated into this Interpretation.

ISSUE

May a crude oil reseller which has a common carrier affiliate use the common carrier tariff which it actually pays to its affiliate for transportation of the reseller's crude oil, rather than the actual cost of transportation of the crude oil, to determine its "transportation and gathering cost" for purposes of establishing prices for crude oil resales?

INTERPRETATION

For the reasons set forth below, it has been determined that a crude oil reseller may use the common carrier tariff which it actually pays to its common carrier affiliate in computing the transportation and gathering cost of crude oil for purposes of establishing prices for crude oil resales.

Prior to January 1, 1978, crude oil resales were governed by the reseller/retailer price rule, 10 CFR Part 212, Subpart F. Separate pricing provisions for resales of crude oil were adopted, however, because the historic business practices of crude oil resellers differed from those of other resellers and retailers, and, as a result, application of 10 CFR Part 212, Subpart F, was impractical. Subpart L takes an entirely new approach to crude oil resales. Under these provisions, a reseller may sell crude oil at any reasonable price, so long as the reseller's average markup for all sales of crude oil in that month does not exceed the reseller's "permissible average markup." The permissible

[9] Section 211.103 sets forth the different allocation levels for categories of "uses" of motor gasoline.

[10] Basin's original request for interpretation was dated February 21, 1978. On April 18, 1978, Basin submitted an amended request, which, while still seeking an interpretation of the same regulatory provisions, somewhat narrowed the accompanying discussion. This interpretation is based upon information presented in both the original and the amended requests.

[11] Because of the nature of its request, there were no aggrieved parties to be served by Basin. The DOE recognized, however, that parties may be interested in commenting on the request, which, while binding only upon Basin, is an expression of agency policy which may be looked to by other persons for guidance as to the meaning of the regulations. The "persuasive effect [of interpretations] may widely transcend any binding force." *Atlantic Richfield Co.* v. *FEA*, 556 F. 2d 542, 551 (TECA 1977).

average markup is the average markup during a base priod, either May 1973 or November 1977. 10 CFR 212.182.[12] The reseller must determine its permissible average markup by calculating the difference between the total lawful revenues from the sale of crude oil in the base period and the total costs and expenses associated with the sale of that crude oil in the base period.

In determining the average markup and the permissible average markup, a reseller is permitted to subtract from its lawful revenues three categories of expenses associated with the crude oil sold in a given month: the acquisition cost, the transportation and gathering cost, and general and administrative expenses.

The present interpretation, of course, is concerned with the definition of allowable costs of transportation. That definition provides:

"'Transportation and gathering cost' means (a) any common carrier tariff actually paid by a reseller to transport crude oil from the reseller's reception station or point of acquisition to a point of sale, or (b) the actual expenses, including depreciation expense, associated with the operation and maintenance of trucks, pipelines, and other modes of transportation used to transport crude oil sold from the reseller's points of acquisition to points of sale directly or through reception stations, plus the expenses, including depreciation expense, associated with the operation and maintenance of reception stations." 10 CFR 212.182.

The preambles to the proposed rule and to the final rule adopted as Subpart L do not directly address the situation in which a reseller owns or controls a common carrier which transports the reseller's crude oil, and therefore do not shed direct light on the interpretation to be given to the definition of transportation and gathering cost. It is noteworthy, however, that the Federal Energy Administration (FEA), a predecessor agency to the DOE, considered using a "transportation allowance," based upon comparable common carrier tariffs, for those resellers who transported crude oil through their own pipeline. See 42 FR at 41261 (August 15, 1977). In noting that the final rule used actual costs, rather than a transportation allowance, for resellers transporting their own crude oil, the Economic Regulatory Administration (ERA) of the DOE stated:

"On the basis of the comments, ERA has determined to modify the proposed definition of transportation cost to provide that, where the crude oil is transported through facilities owned by the reseller *that are not common carriers*, the reseller will be permitted to pass through its actual transportation costs without regard to the comparable common carrier tariff." 42 FR at 64859 (December 29, 1977) (emphasis added).

The quoted language implies the converse, that is, that where a reseller owns or controls common carrier facilities through an affiliate, it will be permitted to base its transportation cost upon the common carrier tariff it pays to the affiliate.

A plain reading of the phrase "any common carrier tariff actually paid by a reseller to transport crude oil" does not on its face exclude a tariff which is paid to an affiliate of the crude oil reseller, so long as that tariff is "actually paid." The question, then, is what constitutes actual payment.

All common carriers, of course, are subject to government regulation under a comprehensive state or Federal statutory scheme.[13] As part of that regulatory scheme, a common carrier is required to charge the tariff approved for it by the appropriate regulatory agency. In the case of interstate pipelines regulated by the Federal Energy Regulatory Commission (FERC), or interstate motor carriers, regulated by the Interstate Commerce Commission (ICC), the practice of granting preferential rates to one customer has consistently been prohibited by the Interstate Commerce Act of 1887, 24 Stat. 379, the Elkins Act, 32 Stat. 847 (1903), and the Motor Carrier Act of 1935, 49 Stat. 543.[14] Most state-regulated intrastate common carriers are subject to similar restrictions. Thus, it may be anticipated that where a crude oil reseller has a common carrier affiliate, it will be obligated by law to actually pay the affiliate the common carrier tariff for the transportation of crude oil, and will be barred from receiving preferential rates or treatment.

This view is borne out by the comments submitted to the DOE. One firm, which operates primarily in Texas and owns an intrastate common carrier in that state, noted that its subsidiary is required by state law to follow detailed billing procedures. The firm enumerated those statutory provisions and stated that:

"[The firm's] common carrier subsidiary adheres strictly to the foregoing regulations in billing [the firm] for crude oil hauled, and [the firm] actually issues its check to the carrier based on such billing. [The firm] understands that such practice is standard throughout the industry."

Another crude oil reseller firm which has common carrier affiliates stated that:

"When [the firm] utilizes the transportation services of these common carriers, it is billed for such services in accordance with their established tariffs, and in the same arms-length fashion as any other shipper (whether affiliated or not) which does business with these, or any other common carrier."

The DOE concludes that payment by a reseller to its common carrier affiliate constitutes actual payment as contemplated in the definition of "transportation and gathering cost." Such payments are mandated by Federal or state statutes and regulations, and compliance with those requirements is overseen by independent Federal and state regulatory bodies. There is nothing to suggest that such transfers of funds from the reseller to its affiliate have the effect of impermissibly adding artificial or unreasonable cost increases to the prices charged in crude oil resales.

This view accords with Ruling 1975-10, 40 FR 40826 (September 4, 1975). That Ruling dealt with transportation costs where a reseller or retailer provides its own transportation, rather than using an independent common carrier, to bring product into inventory. In finding that increases in such transportation costs are product costs, the FEA noted that "a firm should not be disadvantaged under the FEA price regulations because it chose to use its own facilities rather than an independent carrier." 40 Fr at 40827. Likewise, it is apparent that a firm should not be penalized because it chooses to use its affiliated common carrier rather than an independent carrier.

Permitting resellers with common carrier affiliates to use the common carrier tariff paid to the affiliate in establishing prices for crude oil resales is also in accord with the treatment allowed to refiners under similar circumstances. Under the refiner price rule, 10 CFR Part 212, Subpart E, "transactions between affiliated entities may be used to calculate increased costs." 10 CFR 212.83(b). A refiner which owns or controls a common carrier affiliate may use the tariff which it pays to its affiliate, for the transportation of crude oil to its refinery, in calculating maximum allowable prices for refined petroleum products. While crude oil resellers constitute an entirely different segment of the oil industry, and are thus subject to an entirely separate price rule from refiners, it would nonetheless be inconsistent for the DOE to treat the common carrier transportation costs of crude oil resellers differently from those of refiners, particularly in the absence of a specific indication to the contrary in the regulations governing resales of crude oil.

The result reached in this interpretation means that a reseller with a common carrier affiliate will have a tariff basis upon which it may compute its costs for the crude oil transported by that common carrier, rather than using the carrier's actual cost of transportation. As noted previously, the common carrier tariff typically provides for a return on the capital investment made in transportation equipment and facilities, which return will be earned by the reseller's common carrier affiliate. The rate of return that the affiliate earns, however, is not arbitrary. For all common carriers, either the FERC, the ICC, or a comparable independent state regulatory agency controls the process by which tariffs are established. Typically, upon its own initiative or upon a complaint by a third party, the agency is empowered to suspend tariffs charged by the common carrier, and, in place of an excessive tariff proposed by the carrier, to establish a fair tariff based upon a reasonable rate of return. *See, e.g.*, 49 U.S.C. 15, 316. Accordingly, it is not anticipated that a reseller could gain undue or "windfall" benefits from the use of a common carrier tariff paid to an affiliate in establishing prices for crude oil resales.

Further, the result reached here is particularly appropriate when the regulatory restrictions paid upon common carriers are considered.[15] The common carrier is obligated to offer its services to others, and may not refuse a reasonable tender for its services. *See, e.g.*, 49 U.S.C. § 1(4). In addition, the common carrier if obligated by the FERC, the ICC, or state regulatory agencies to do a number of things not required of a reseller which provides its own transportation. Typically, a common carrier must obtain a certificate of public convenience and necessity[16] and submit tariff schedules

[12] For resellers which did not sell crude oil prior to December 1, 1977, the Economic Regulatory Administration of DOE will establish a permissible average markup for that reseller. 10 CFR 212.182.

[13] For general discussion of the development and present status of regulation of common carriers, *see generally* A. Johnson, *Petroleum Pipelines and Public Policy* 188-206 (1967); W. Beard, *Regulation of Pipelines as Common Carriers* (1964); W. Hudson & J. Constantin, *Motor Transportation: Principles and Practices* (1958).

[14] These acts are now codified in 49 U.S.C. §§ 1 *et seq.* and and 301 *et seq.* (1970).

[15] *See* n. 4. *supra.*

[16] The FERC, the ICC, and virtually every state regulatory agency places the burden

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to the agency, from which it may not vary without agency approval, and which are subject to agency investigation and change. The common carrier must maintain certain records, file regular reports on its operations, follow specified accounting rules and procedures, pay special license fees and taxes, and obtain and maintain bonds warranting its performance and insuring the safety of its operations. C. Taff, *Commercial Motor Transportation* 272 (1950). These constraints are significant, and serve to balance whatever advantage a crude oil reseller may gain by using an affiliated common carrier to transport the reseller's crude oil.

As was noted in the preamble accompanying the crude oil reseller price rule, the rulemaking concerning Subpart L is under continuing review by the ERA. That preamble solicited further comments on the rulemaking, with a view toward changing the provisions governing resellers' transportation charges, and specifically asked whether "crude oil resellers should be permitted to use comparable common carrier tariffs to determine their transportation costs either irrespective of or as an alternative to using their actual transportation costs." 42 FR at 64863. Comments are welcome as to the effect of the interpretation of the definition of transportation and gathering cost set forth herein, and will be considered in any future notice of proposed rulemaking on the treatment of resellers' transportation costs of crude oil.

INTERPRETATION 1978-26

To: Air-Conditioning and Refrigeration Institute.
Date: May 19, 1978.
Rules Interpreted: 10 CFR Part 430; EPCA Title III, Part B.
Code: GCW-OI—Energy Conservation Program, Room Air Conditioners.

FACTS

The Air-Conditioning and Refrigeration Institute ("ARI") is a trade association whose members manufacture air conditioning and refrigeration equipment. The equipment manufactured by ARI members includes unitary (i.e., central) air conditioning units and heat pumps designed for home use. Also manufactured by ARI members are packaged terminal air conditioners ("PTACs"), which are self-contained air-conditioning units used primarily to heat and cool exterior offices or zones of commercial buildings. ARI members also manufacture large central heating and cooling equipment for commercial structures.

Under the energy conservation program for consumer products other than automobiles in 10 CFR Part 430, test procedures for measurement of energy consumption in room air conditioners have been established. The definition of "room air conditioner" in § 430.2 is sufficiently broad to encompass PTACs. It provides as follows:

" 'Room air conditioner' means an encased assembly designed as a unit for mounting in a window or through a wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a primary source of refrigeration and may include a means for ventilation and heating."

The only significant physical differences between PTAC equipment as defined by ARI and room air conditioners as defined by the Association of Home Appliance Manufacturers ("AHAM") are that PTACs must have a heating capability without altering the product configuration and capability to introduce outdoor air into the conditioned space. The AHAM definition of room air conditioner, like the definition in § 430.2, permits but does not require ventilation and heating capability.

According to an informal survey of its members conducted by ARI, approximately 89 percent of PTACs sold in 1976 in the United States were installed in commercial structures such as office buildings, motels and hospitals. The remaining 11 percent were installed in high-rise apartment buildings, homes for the aged and other institutional structures, under circumstances in which the occupants thereof did not purchase or participate in the decision concerning purchase of the air conditioning system in use.

ARI seeks an interpretation that the Federal Energy Administration ("FEA"), in promulgating the test procedures for room air conditioners in 10 CFR Part 430, did not intend to include PTACs in the definition of "room air conditioners" because PTACs are not "consumer products" within the meaning of the energy conservation program for consumer products in Part B of Title III of the Energy Policy and Conservation Act, as amended ("EPCA"), Pub. L. No. 94-163 (December 22, 1975).[17]

ISSUE

Whether PTACs are within the scope of the regulations applicable to test procedures for room air conditioners in 10 CFR Part 430.

INTERPRETATION

For the reasons noted below, it is concluded that PTACs are within the scope of the regulations concerning test procedures for room air conditioners in 10 CFR Part 430.

Statutory definition of "consumer product." ARI's basic contention is that PTACs should be excluded from the scope of the energy conservation program for consumer products in Part B of Title III, EPCA, because they are not "consumer products" within the intent of that program. It is ARI's position that the "consumer products" referred to are basically products purchased for use in a residence by the occupants thereof, and not products purchased for institutional or commercial application (including use in rental units, where the occupant is unlikely to have purchased or participated in the decision to purchase the product concerned). Using this approach, and taking PTACs as a separate product category, ARI concludes that none or virtually none of the PTACs sold in recent years were sold as "consumer products."

"Consumer product" is defined, for purposes of Part B, as

"[A]ny article * * * *of a type*—

(A) which in operation consumes, or is designed to consume, energy; and

(B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals;" without regard to whether such article *of such type* is in fact distributed in commerce for personal use or consumption by an individual."[18]

The key factor in this definition, for purposes of this Interpretation, is the presence of the words "of a type" between the word "article" and the main descriptive or qualifying elements in clauses (A) and (B). This means that the qualifying criteria prescribed in clauses (A) and (B) are to be applied on the basis of the *product type* concerned, rather than on the basis of each sub-grouping or each individual "article" within that "type." The application of this definition on a *product type* basis is reinforced by the "without regard" proviso at the end of the definition of "consumer product," which makes it clear that if the qualifying test relating to distribution for "personal use or consumption by an individual" is met for the product "type" it makes no difference whether a particular article or product of the "type" concerned is so distributed or used.

The significance of the product "type" is explained in § 322(a), which provides as follows (emphasis added):

A consumer product is a covered product if it is one of the following *types* . . . :

(1) Refrigerators and refrigerator-freezers.
(2) Freezers.
(3) Dishwashers.
(4) Clothes dryers.
(5) Water heaters.
(6) *Room air conditioners.*
(7) Home heating equipment, not including furnaces.
(8) Television sets.
(9) Kitchen ranges and ovens.
(10) Clothes washers.
(11) Humidifers and dehumidifers.
(12) Central air conditioners.
(13) Furnaces.
(14) Any other type of consumer product which the [FEA] Administrator classifies as a covered product under subsection (b).

There can be no doubt that PTACs fall within the product type "room air conditioner," since by definition a PTAC is a "packaged terminal *air conditioner*" and by ARI's admission is used to cool rooms. No one disputes that PTACs fall within the broad regulatory definition of "room air conditioner" in 10 CFR Part 430.

In the particular terminology of Part B of Title III of the EPCA, PTACs appear to constitute a "class of covered products," a defined term which was described in the Conference Report on the EPCA as "*a subcategory of a type* (such as a color television set, or a microwave oven), or a classification which includes 'hybrid' products which perform functions characteristic of more than one type (such as combination clothes-washer-clothesdryer)."[19] It is not necessary,

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upon the applicant to prove the public convenience and necessity which is a prerequisite to obtaining a certificate to operate as a common carrier. This requirement will tend to insure that crude oil resellers will not be able to create common carrier affiliates solely to obtain a common carrier tariff to be used in calculating prices for crude oil resales. However, where the public convenience and necessity indicate that a crude oil reseller will serve a public function by creating a common carrier affiliate, then the reseller will be able to use the common carrier tariff paid to the affiliate for the transportation of the reseller's crude oil. As is pointed out *infra*, this benefit will be offset by the additional obligations placed upon the reseller by the creation of the common carrier affiliate.

[17] 42 U.S.C. 6201 et seq. (Supp. V 1975).

[18] EPCA § 321(a)(1) (emphasis added).

[19] S. Rep. No. 94-516, 94th Cong., 1st Sess. 169, *reprinted in* [1975] U.S. Code Cong. & Ad. News 2010 (emphasis added).

however, to determine the exact sub-classification of PTACs for purposes of this Interpretation. It is necessary only to make it clear that qualification as a "consumer product" relates to whether the product *type* concerned (e.g., room air conditioners) meets both the criteria of energy consumption and significant distribution in commerce for personal use or consumption by individuals, regardless of whether a subcategory or individual "article" of the type concerned (e.g., PTACs) meets these criteria.

We conclude that because Congress chose to determine qualifications as a "consumer product" for purposes of Part B on the basis of the generic classification or "type" concerned, *as a whole*, and rejected as a test of such qualification the use characteristics of an individual subcategory or individual "article" of that "type," PTACs cannot be excluded from the coverage of Part B on the basis of the reasoning set forth by ARI.[20]

Regulatory considerations. In implementing the energy conservation program for consumer products, the Department of Energy ("DOE") and FEA before it, adopted specific rules designed to exclude from the program certain appliances beyond given limits. For example, in connection with the rulemaking concerning test procedures for central air conditioners, the FEA proposed, and DOE adopted, a definition of "central air conditioners" which was restricted to units with a capacity of less than 65,000 Btu/hour. 42 FR 30401 (June 14, 1977); 42 FR 60150 (November 25, 1977). Similarly, the definition of "furnace" was restricted to devices with a heat input rate of less than 300,000 Btus per hour, for electric boilers and low pressure steam or hot water boilers, and less than 225,000 Btus per hour for forced air central furnaces, gravity central furnaces, and electric central furnaces. 43 FR 20147 (May 10, 1978). These limitations were empirically determined in the course of rulemaking proceedings in order to exclude cooling and heating systems which were deemed too large for residential use but which in the absence of such express limitations would have fallen within the scope of the regulatory program.

A similar limitation, designed to exclude PTACs or other room air conditioners which would not be used for residential purposes, might have been prescribed for the test procedures for room air conditioners, but was not. Failure to provide for such a limitation may have been due to difficulty in finding an appropriate limiting rule, since PTAC models appear to be designed on an all-purpose basis.[21] In any event, the fact that the regulatory definition of "room air conditioner" is broad enough to encompass PTACs, and contains no restriction as to size or usage when such a limitation might have been imposed, further supports our view that such a limitation should not now be supplied through the interpretations process.

The examples of the definition of "central air conditioner" and "furnace" illustrates that limitations as to capacity size or usage are likely to vary markedly from product type to product type, depending upon the particular engineering and other technical factors involved in each case. A capacity, size, or use limitation under the broad definition of "room air conditioner" would likely also involve substantive policy determinations based on all relevant technical and marketing data relating to PTACs. Questions concerning whether there should be such a limitation, and, if so, where or how the demarcation line should be drawn, should therefore be resolved in the context of rulemaking proceedings.[22]

INTERPRETATION 1978-27

To: Martin Exploration Co.
Date: May 19, 1978.
Rules Interpreted: 10 CFR 212.162, 212.166(b)(3).
Code: GCW-PI—NGL products, natural gas shrinkage.

FACTS

Martin Exploration Co. ("Martin") is engaged in the production and sale of crude oil and natural gas. Martin is also a "gas plant owner" and "gas plant operator" as defined in 10 CFR 212.162. Martin acquired 100 percent of the working interest in the Wilcox B Sand Unit ("Wilcox Unit") by transfers on May 2, 1977, and September 22, 1977.

The Wilcox Unit is a condensate gas reservoir, discovered in 1966, in Beauregard Parish, La. On August 1, 1968, the Louisiana Department of Conservation created a reservoir-wide unit and approved a gas cycling program to enhance recovery of condensate.

There are seven completed wells in the Wilcox Unit—one gas injection well and six producing wells. Under the cycling program, the wet gas stream is produced and transported from the wellheads to a surface separator which recovers condensate. The remaining separator gas is presently injected into the reservoir to prevent retrograde condensation. In the absence of the cycling program the total amount of recoverable condensate would be substantially reduced, but total recovery of natural gas liquids ("NGL's") and residue gas would be only slightly reduced.

Prior to 1978, the separator gas, before its injection into the reservoir, had been run through a refrigerated absorption plant owned by Martin. In that plant NGL's were extracted and sold to Crystal Oil Co. Martin now contemplates the construction at the same site of a cryogenic gas plant, which is a more efficient extraction facility. At present, Martin does not extract NGL's before injecting the gas into the reservoir.

Martin proposes to begin extracting NGL's again, if it is permitted to calculate "increased cost of natural gas shrinkage" using the highest gas sale price which Martin is receiving under a contract covering its gas properties in South Louisiana in the month in which extraction of NGL's occurs.

ISSUE

If Martin extracts NGL's and makes no sales of residue gas from the Wilcox Unit in the current month, may Martin calculate increased cost of natural gas shrinkage under 10 CFR 212.162 and 212.166(b)(3) using the highest residue gas sale price which Martin is receiving under a contract covering its gas properties in South Louisiana in the month in which extraction of NGL's occurs?

INTERPRETATION

For the reasons set forth below, Martin may not recoup and increased cost of natural gas shrinkage pursuant to 10 CFR 212.162 and 212.166(b)(3) where there are no residue gas sales from the Wilcox Unit in the month in which the NGL's are extracted.

An important element in the computation of lawful first sale prices in accordance with Subpart K of 10 CFR, Part 212, is increased product costs. Such costs may be passed through on a dollar-for-dollar basis. 10 CFR 212.166(a). The method of computation of increased product costs, including increased cost of natural gas shrinkage, is set forth in § 212.166(b). "Cost of natural gas shrinkage" in May 1973 and the current month, from which increases are calculated according to § 212.166(b)(3), is defined in § 212.162:

"'Cost of natural gas shrinkage' means the reduction in *selling price* per thousand cubic feet (MCF) *of natural gas processed*, which is attributable to the reduction in volume or BTU value of the natural gas resulting from the extraction of natural gas liquids, *as determined pursuant to the contract in effect at the time for which cost of natural gas shrinkage is being measured, and under which the processed natural gas is sold.*" (Emphasis added.)

To determine this shrinkage "cost" in the current month a firm must identify the selling price of the natural gas processed "at the time for which [the] cost of natural gas shrinkage is being measured (*i.e.* in the current month)," and "pursuant to the contract * * * under which the processed natural gas is sold (*i.e.* the contract, if any, under which the natural gas produced from the Wilcox Unit is sold)."

Ruling 1975-18, 40 FR 55860 (December 2, 1975), provides clear guidance as to the calculation of increased shrinkage costs in accordance with the literal language quoted above:

"The 'cost of natural gas shrinkage' is computed, as defined in § 212.162, by determining the reduction in selling price of the processed gas attributable to the extraction of natural gas liquids, *by reference to the contract price in effect for the relevant month.*" 40 FR at 55862; *accord* Ruling 1975-6, 40 FR 23272 (May 29, 1975).

Martin, therefore, must measure increased shrinkage costs in the current month according to sales of natural gas from the Wilcox Unit *in* the current month. Martin is delaying sales of natural gas from the Wilcox Unit to maintain a pressure cycling operation to increase the ultimate recovery of condensate from that unit. Therefore, since there is no sale of the processed natural gas, it is impossible for the firm to determine "cost of natural gas shrinkage" in accordance with the express language of § 212.162.

[20] For purposes of this Interpretation, it is not necessary to decide whether use by tenants of landlord-owned PTACs constitutes "personal use of consumption by individuals" within the meaning of EPCA § 321(a)(1), quoted in the text.

[21] We understand that PTACs models are essentially distinguishable on the basis of Btu output (e.g., a 8,000 Btu/hour model, a 10,000 Btu/hour model, etc.). A particular model may be used interchangeably to cool an office or a room of similar size in a residence.

[22] In addition to the reasons given above for the position taken in this Interpretation, it may be noted that this Interpretation is consistent with an anticipated trend toward greater use of PTACs by individuals in residences in the future. Such a trend is indicated, for example, by the growing market for condominiums which may lead to significant purchases of PTAC units by condominium owners. In addition, PTACs may be increasingly in demand for use in homes generally, due to their zonal cooling flexibility compared with central air conditioning.

This result (no increased shrinkage costs where there are no residue gas sales in the relevant month) has been confirmed in the context of an exception proceeding. *Twin-Tech Oil Company*, 5 FEA paragraph ¶83,126 (March 28, 1977), *aff'd* 6 FEA paragraph ¶80,565 (September 30, 1977), *filed sub nom. Twin City Barge & Touring Company, et al.* v. *Schlesinger*, Civil No. H-77-1577 (S.D. Tex., Sept. 22, 1977). Those decisions determined that increased shrinkage costs are only available where a gas processor experiences an actual reduction in gas sales revenues:

"In the present case Twin-Tech does not actually incur any increased costs of natural gas shrinkage *because it does not sell its residual natural gas* and *does not therefore, experience a 'reduction in sales revenue.'* " 5 FEA at 83,561 (emphasis added).

Martin maintains that *Twin-Tech* stands solely for the proposition that a seller of NGL's does not incur recoverable increased shrinkage costs if it *never* sells its residue gas streams. In support of this position, Martin notes that "the plant which Twin-Tech (operates) is situated in an isolated location which is not accessible to a pipeline through which the processed natural gas can be transported." 6 FEA at 80,830. Therefore, Martin asserts that Twin-Tech *could never expect to sell* natural gas from its property. According to Martin, it has every expectation of selling natural gas, but those sales are *merely delayed*. Therefore, Martin asserts that if it extracts NGL's, it must be permitted to recover shrinkage costs in current months representing: (1) The opportunity costs foregone in its future sales of natural gas; (2) an incentive for it to extract NGL's while continuing its pressure cycling operations; and (3) a matter of fairness.

Martin states that the most precise measure of its actual reduction in gas revenues would be the price Martin will receive for its gas upon blowdown projected for January 1, 1982. Recognizing the speculative nature of such an approach and the resultant audit problems, Martin submits an alternative approach to arrive at the appropriate imputed figure to be used in its shrinkage calculations for the Wilcox Unit. Martin suggests that the highest gas sales price which Martin is receiving under a contract covering its properties in South Louisiana during the month of extraction could be used to obtain an "imputed" price.

In its submission Martin recognizes the speculative nature of estimating the opportunity costs associated with NGL extraction and the necessity of *constructing* a method of measuring increased shrinkage costs at the Wilcox Unit. Contrary to Martin's assertions, formulating a method to compensate for the loss of gas revenues resulting from NGL extraction is not a simple, straightforward process. For example, the imputed figures must speculatively and implicitly determine whether the gas will be sold subject to price regulation and sold on a British thermal unit (Btu) or volumetric (Mcf) basis. However, the use of an actual sales price of the gas processed permits the most precise appraisal of the lost opportunity to sell the liquids in the gas stream. The use of the highest price in a nearby area, as Martin suggests, may not approximate the actual sales opportunities for gas from the Wilcox Unit in 1982.[23]

[23]Perhaps some other figure, such as the national interstate rate, the weighted average price of all sales of residue gas by Martin in the relevant month, or the residue price in the nearest field, would be a more appropriate measure of Martin's shrinkage costs. *See* Proposed Amendments to Subpart K, 42 FR 29490 (June 9, 1977).

The interpretations process is neither a substitute nor an alternative forum for rulemaking or exception relief. Issues of equity and the maximization of general energy policy objectives are best resolved on the basis of the extensive factual information which can be developed in those forums.

Requested interpretations have been rejected because, *inter alia*, there was no basis in the regulations for the result sought. *See, e.g., Guam Oil & Refining Co., Inc.*, Interpretation 1977-5, 42 FR 10963 (February 25, 1977), *aff'd* 5 FEA ¶ 80,619 (May 3, 1977). In language relevant to these facts, the appeals decision in that case stated:

"What GORCO is in essence seeking in the context of an interpretation proceeding is a broad revision of the regulatory requirements which is specifically designed so as to reach only the particular factual situation which it is facing (sic). FEA could issue an interpretation which has no support in the language of any applicable regulatory provision and is expressly designed to apply only to the specific circumstances of one firm. If it were to do so, the FEA would not only be issuing an interpretation which is not contemplated by the regulations but would also be straining any reasonable or proper reading of the regulations for the sole purpose of conferring benefits upon GORCO." 5 FEA at 81,148.

The shrinkage calculation specified in the regulations and discussed herein is unambiguous. Accordingly, Martin must calculate its shrinkage costs, if any, based on the selling price of residue gas from the Wilcox Unit in the relevant month.

INTERPRETATION 1978-28

To: Intenco, Inc., and Houston Carbon Co., Ltd.
Date: May 19, 1978.
Rule Interpreted: § 212.31.
Code: GCW-PI—Definition of covered products.

FACTS

Intenco, Inc. (Intenco), operates a plant owned by Houston Carbon Co., Ltd. (HCCL), pursuant to a management agreement with HCCL. Intenco also has a licensing agreement with HCCL for the new Intenco "Pyroblack" process of reclaiming and processing discarded automotive tires and recycled lubricating oil to produce synthetic oil and carbon black. The synthetic oil produced from the plant by this "Pyroblack" process is expected to constitute a raw material for gasoline and fuel oil production.

ISSUE

Are the recycled lubricating oils and discarded automotive tires purchased by Intenco and the synthetic oil and carbon black produced by the "Pyroblack" process and sold by Intenco covered products under 10 CFR 212.31 of the Mandatory Petroleum Price Regulations?

INTERPRETATION

The synthetic oil and carbon black produced by Intenco's "Pyroblack" process are not covered products under the definition of that term set forth at 10 CFR 212.31 and, therefore, are not covered by the provisions of the Mandatory Petroleum Price Regulations. Neither the petroleum products purchased as feedstocks for the "Pyroblack" process nor the products generated by the HCCL plant are presently controlled by the provisions of the Mandatory Petroleum Price Regulations.

Section 4 of the Emergency Petroleum Allocation Act of 1973, *as amended* (EPAA), Pub. L. No. 93-159 (November 27, 1973): [24] directed the President to promulgate allocation and price regulations for "crude oil, residual fuel oil, and each refined product." Pursuant to this statutory mandate, the Mandatory Petroleum Price Regulations, set forth at 10 CFR Part 212, were adopted to control the pricing of crude oil, residual fuel oil, and refined petroleum products. Section 212.1(a) of 10 CFR describes the scope of this federal regulatory authority. It states that Part 212 "sets forth the price rules for firms engaged in the production and sale of *covered products* * * * effective 11:59 p.m., e.s.t., January 14, 1974" (emphasis added). Thus, the Mandatory Petroleum Price Regulations are only applicable to those substances which are classified as "covered products." Under the regulatory definition currently set forth at 10 CFR 212.31:

" 'Covered products' means aviation fuel (kerosene-type), aviation gasoline, butane, crude oil, gasoline, natural gas liquids, natural gasoline, and propane. A blend (of) two or more particular covered products is considered to be that particular covered product constituting the major proportion of the blend."

This definition is the criterion for determining whether the products which Intenco purchases, produces, and sells are subject to regulation.

Neither the recycled lubricating oils nor the discarded automotive tires which are purchased by Intenco and which constitute the feedstocks for the "Pyroblack" process employed at the HCCL plant are presently covered products for the purposes of Part 212. However, recycled lubricating oils were once products covered by the Mandatory Petroleum Price Regulations as lubricants or base oil stocks. *See Hicks Oil Co.*, Interpretation 1977-9, 42 FR 31143 (June 20, 1977). Lubricants were classified as general refinery products and were covered products under the provisions of the Mandatory Petroleum Price Regulations until September 1, 1976, when § 212.56 of 10 CFR exempted certain general refinery products from price controls. 41 FR 30096 (July 22, 1976). Thus, lubricating oils recycled from such general refinery products were also exempt from price controls as of September 1, 1976.

Sales or purchases of automotive tires have never been covered by the Mandatory Petroleum Price Regulations. Generally, automotive tires are made from petrochemicals produced from petroleum products. Although the petrochemical industry was mentioned in the Conference Report, H.R. Rep. No. 93-628, 93rd Cong., 1st Sess. (1973), which accompanied the EPAA, as an "identified objective" to be preserved and fostered by the provisions of the EPAA, only allocation controls over feedstocks to petrochemical plants were envisioned. No price controls were ever imposed on petrochemicals produced from petroleum products. Thus, discarded automotive tires, like new tires, have never been and are not now cov-

[24]15 U.S.C. 751 *et seq.* (1976).

ered products under the Mandatory Petroleum Price Regulations. Accordingly, each of the components which Intenco purchases to use as the feedstocks for its "Pyroblack" process at the HCCL plant is exempt from the price regulations set forth at 10 CFR Part 212.

Likewise, neither of the products produced at the HCCL plant and sold by Intenco is a covered product for the purposes of 10 CFR Part 212. Although the synthetic oil produced by Intenco shares certain physical and chemical similarities to crude oil and may be used as a raw material in the refining of gasoline and fuel oil, the synthetic oil [25] clearly does not meet the definition of crude oil contained in 10 CFR 212.31. The definition provides in part that:

" 'Crude oil' means a mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities."

The synthetic oil did not exist in liquid phase in an underground reservoir. Rather, the synthetic oil is a product obtained by the processing of discarded automotive tires and recycled lubricating oil. Thus, Intenco may sell the synthetic oil it produces by the "Pyroblack" process at prices not subject to the price regulations set forth at 10 CFR Part 212.

In addition, the carbon black produced from the HCCL plant is not a covered product under the Mandatory Petroleum Price Regulations. Carbon black is an almost pure carbon product which is not normally produced by petroleum refining processes. It clearly does not qualify as "crude oil" or as "residual fuel oil" under the definitions of those substances set forth at 10 CFR 212.31. The carbon black is also not a refined petroleum product, i.e., "gasoline, kerosene, distillates, (including Number 2 fuel oil), LPG, refined lubricating oils or diesel fuel," under the definition set forth at § 3 of the EPAA. Thus, carbon black has never been a product covered by the Mandatory Petroleum Price Regulations.

Accordingly, Intenco's purchases of recycled lubricating oils and discarded automotive tires are not covered by the price regulations, and it may sell the synthetic oil and carbon black produced from the HCCL plant at prices not subject to the Mandatory Petroleum Price Regulations.

[FR Doc. 78-16044 Filed 6-8-78; 8:45 am]

[25] Tests of the synthetic oil indicate an API gravity of 19°, 0.774% sulphur content by weight and a pour point of −15° F.

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATION

[Reg. ER-1052; Amdt. 8]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Increase in Aircraft Size for All-Cargo Air Taxis

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule increases the maximum allowable size for all-cargo air taxis from 7,500 pounds to 18,000 pounds payload capacity, except for Alaska and Hawaii. The larger aircraft gives the air taxi operators greater flexibility and will provide improved service to the small and rural communities they serve. The change in the regulations is in response to a petition from nine all-cargo commuter air carriers.

DATES: Adopted: June 1, 1978. Effective: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph Brooks, Office of the General Counsel, Rules Division, CAB, 1825 Connecticut Avenue NW., Washington, D.C., 202-673-5442.

SUPPLEMENTARY INFORMATION: In response to a joint petition for rulemaking filed by nine all-cargo commuter air carriers, the Board, in December 1977, issued notice of proposed rulemaking EDR-341 (42 FR 62930), asking for public comment on proposed rules to raise the aircraft size limit for all-cargo air taxis to 18,000 pounds maximum payload capacity. The notice was limited to the relief requested by the petitioners, which excluded air taxi operations in Hawaii and Alaska, in order to simplify and expedite the proceeding.[1]

Twenty-seven comments, reply comments, and letters have been received from air freight forwarders, direct air carriers, air taxis, and various government and civic parties.[2] The scheduled and supplemental carriers generally oppose this change in the rules, while most other comments are in favor of increasing the aircraft size as proposed. In response to the Board's tentative conclusions in EDR-341, three general issues are discussed in the comments: Whether the recent all-cargo deregulation legislation (Pub. L. 95-163) eliminates the need for this rulemaking; whether tariffs should be required of any air taxi operating 18,000 pound aircraft; and whether the proposed exemption is lawful under § 416 of the Act. Various modifications to the proposed rules are also suggested in the comments, such as limiting the application of the new rule to interstate transportation, allowing certificated carriers to operate the same size of aircraft under the same exemptions as apply to air taxis, and strengthening labor protection for air taxi employees.

The Board has decided to adopt the rule as proposed in EDR-341. The inceased size will enable the all-cargo air taxis to serve more efficiently their primary purpose as a feeder service to the larger certificated carriers, and in providing vital air links to rural and non-hub communities.

TIA and TWA both argue that the air taxis have already obtained the relief sought, in the form of liberalized all-cargo certificates under new § 418 of the Act. They claim that this type of certificate serves the same purpose as the new rule, thus demonstrating Congressional intent that the expanded, freely operating all-cargo service asked for by the air taxis is to be conducted under a § 418 certificate, not under § 416 exemption authority. These carriers argue that by proceeding under its exemption power to expand the less-regulated air taxis in direct competition with the § 418 carriers, as well as with certain operations of other certificate, carriers, the Board is circumventing the Congressional regulatory scheme. In addition, states TIA, since Part 298 grants air taxis operating authority in foreign as well as domestic air transportation, the Board is going beyond the Congressionally authorized cargo deregulation, which is limited to domestic markets.

We reject these arguments. While all-cargo carriers operating under § 418 do have substantially more freedom than under a § 401 certificate, even the relatively light burdensome regulatory requirements that may be suitable for large aircraft operations under § 418 do not go far enough to allow operators of small aircraft to respond to the needs of the market with maximum flexibility. Air taxis are, and will continue to be, merely an adjunct to certificated air transportation, whether certificates are issued under § 401, or, in the case of all-cargo carriers, under § 418. Nothing in the text of Pub. L.

[1] Supplemental notice of proposed rulemaking EDR-341A (43 FR 13892), issued on March 28, 1978, proposes to include Alaska and Hawaii in the change in aircraft size. We are proceeding with the basic rulemaking, however, so as not to delay relief to the vast majority of air taxis, while we continue to consider separately the Alaska and Hawaii issues. It is our intent to reach a decision on the Alaska and Hawaii part of the rulemaking by August 1, 1978.

[2] Comments and/or reply comments have been filed by: Federal Reserve Bank of Chicago, Columbia House, Precision Valley Aviation, Air Freight Forwarders Association of America (AFFA), Novo Airfreight Corp. (Novo), William J. Godbout Co., Cosmopolitan Aviation Corp., Jet Way Shippers Association, United Air Lines (United), Commuter Airline Association of America, Summit Airlines, Trans International Airlines (TIA), the Flying Tiger Line (FTL), U.S. Department of Transportation (DOT), Federal Express Corp., International Brotherhood of Teamsters, eight commuter all-cargo air carriers (Blackhawk Airways, Burl-Air Freight, Great Western Airlines, Meridian Air Cargo, Midwest Air Cargo, Midwest Air Charter, Pinehurst Airlines, Sedalia-Marshall-Boonville Stage Line, Viking International Airlines) (commuters), county of Maui, State of Hawaii, Hawaii Air Cargo Shippers Association, Meridian Air Cargo, and Trans World Airlines (TWA).

95-163 or in its legislative history indicates a Congressional intention that the degree of deregulation there provided for all-cargo operations, regardless of the size of aircraft utilized, is to prevent the Board from continuing to provide in Part 298 its long established system of even freer authorization for air transportation of both passengers and cargo performed by a class of air carriers operating only "small aircraft," or from continuing to redefine that term, from time to time, in light of developments in the air transportation industry, taken as a whole.

The question then is whether the maximum size of cargo aircraft available under the present air taxi system is adequate for the demand of its primary markets. As more fully discussed below, we conclude that the small, short and medium haul markets which air taxis are designed to serve now need the larger cargo capacity made available by this rule, as shown in the answers and comments in this proceeding.

Between 1970 and 1976, cargo carried by commuters increased at an average annual rate of 30.5 percent, from 43.5 to 214.8 million pounds. DOT states that during the same period, the number of small communities (those with less than 100,000 population) served by certificated carriers decreased 14 percent, while the number served by commuters increased 21 percent. Further, where these small communities still do receive certificated service, AFFA complains, the cargo lift provided is often inadequate and untimely. Although § 418 carriers may fill part of this need, the Board concludes that it is, and will continue to be, the air taxis, operating small aircraft, that can best respond to the changing demands and circumstances of these markets.

In addition to the general arguments opposing this rule on the basis of an alleged preemption by § 418, some comments specifically argue that Pub. L. 95-163 demonstrates a Congressional intent that tariffs be filed by any carrier operating all-cargo aircraft as large as the 18,000 pound plane porposed here. Summit Airlines (one of the original petitioners, but now a § 418 carrier and opposed to the rule) argues that the tariff-filing requirement imposed on a § 418 certificated carrier is not burdensome for the air taxi operator, as evidenced by the many commuter rate schedules now published by these carriers. TIA and TWA support this argument, and add that to exempt all-cargo commuters from filing tariffs when they will be operating aircraft competitive with certificated carriers would be discriminatory.

United, though supporting the size increase, argues that tariff filings would be the most effective means of enabling the Board to monitor all-cargo rate levels to prevent predatory pricing. This is especially important, it claims, to protect small shippers against discriminatory rates for favored or large-volume shippers. Novo, an airfreight forwarder, specifically argues that no carrier should be exempt from tariffs, which provide protection for customers and stability in the market.

At the outset, it should be emphasized that the Board has not yet finally decided whether Pub. L. 95-163 mandates that all-cargo carriers having § 418 certificates must file tariffs. To date, it is only in the current regulations, speedily adopted to implement Pub. L. 95-163 for carriers having "grandfather" rights to immediate issuance of § 418 certificates, that the Board decided not to exempt this new class of carriers from the tariff filing requirements of section 403 of the Act.[3] Moreover, even if it were unquestionable that Congress intended that all § 418 carriers must file tariffs, it by no means follows that all-cargo carriers exercising Part 298 authority (i.e., operators of small aircraft) must do so, Nor are we persuaded that we should, as a matter of policy, regard the filing of tariffs as a necessary tool to monitor the pricing practices of the all-cargo air taxis. On the contrary, air taxis have long been exempt from filing tariffs, and there have been no problems of the type which concerns these commenters. Consequently, we adhere to our long-standing view that to require air taxis to file tariffs would place an unnecessary burden on these operators of small aircraft, hindering competition in service to small community markets.

In short, the enactment of Pub. L. 95-163 has not impaired our authority to extend the broad exemptions of Part 298 to operators of small all-cargo aircraft, so long as we can make the necessary statutory findings under § 416 of the Act.[4] The Board has now concluded, on consideration of the comments, that we can make final our tentative findings, in EDR-341 that increasing to 18,000 pounds the maximum size of small aircraft used for all-cargo air taxi operations, excluding Hawaii and Alaska, meets these standards.

FTL, TIA, and TWA argue strenuously that the public interest is not served when unregulated air taxis are allowed to operate similar aircraft in direct competition with fully regulated certificated carriers.[5] TIA claims that 18,000-pounds unregulated air taxi aircraft will be directly competitive with both its markets and operations. While air taxis might still be unable to compete with certificated carriers in the long-haul markets that require wide-bodied jet aircraft, the increased size of their aircraft proposed here, it asserts, will allow unregulated all-cargo air taxi flights in direct competition with TIA's turboprop Electras in the medium and short-haul domestic routes, carrying primarily freight forwarder traffic.

The Board disagrees with these arguments. The comments, answers and letters received in this proceeding show a clear public interest in providing the air taxi with aircraft capacity needed to meet the growing market demand. As stated by Federal Express, there is simply no reason to force these small carriers to refuse cargo for lack of space, or to waste fuel and resources by using mulitple flights to meet existing demands that are too large for present air taxi aircraft and too small to attract the certificated carriers.

The Board does not regard this competition as direct or unfair. The vast majority of aircraft used today by certificated carriers are in no way competitive with 18,000 pound aircraft.[6] Nor are the air taxi markets similar to most of those served by certificated carriers. In addition, the percentage of the present air cargo market held by air taxis is small in comparison to that of the certificated carriers. For example, using the latest comparable figures, in 1976, the commuter carriers transported 16,520,847 ton-miles of cargo, while the certificated carriers transported 2,909,257,000.[7] The air

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[3] See preamble to Part 291, ER-1037, p. 4, adopted December 23, 1977 (42 FR 65139), where the Board stated that it would fully consider this question in the rulemaking that will be instituted for the full implementation of § 418.

[4] Section 416 states that in order for the Board to exempt a carrier from provisions of the Act, it must find that enforcing these provisions would not be in the public interest, and also that enforcement would be an undue burden on the carrier, either because of the limited extent of its operations or because of unusual circumstances affecting those operations.

[5] As specific examples: (1) TIA states that its Electras have a cargo payload of 32,500 pounds, but a useable cube of only 3,200 cubic feet, while the Convair 580, which is proposed for use by air taxis under the new rule, has a useable cube of 2,800 cubic feet; (2) TWA states that an 18,000 pound aircraft is approximately equal in cargo capacity to the belly space of a B-707 aircraft.

[6] For example, as of 1976, only 8 out of the 82 aircraft used by the supplementals would be within the 18,000 pound all-cargo capacity class. TIA also has 12 L-100-30 aircraft at 50,000 pounds, and 9 L-188 aircraft at 35,000 pounds. In comparison, the smallest jet aircraft used by the supplementals, local service carriers, or the trunks has approximately 34,000 to 40,000 pounds all-cargo capacity.

[7] Commuter air carrier traffic statistics, year ended December 31, 1976; air carrier traffic statistics, December 1977.

taxis would thus have to increase at a phenomenal rate to match the certificated carriers (which have also been steadily increasing), an unlikely occurrence because of the divergent markets and types of services provided.

In fact, commuter traffic tends to be at the expense of surface transportation, not of the larger air carriers, as the Board found in the *Part 298 Weight Limitation Investigation* (Orders 72-7-61, 72-9-62). As the commuter traffic increases under these new rules, it is also likely that any such increase will be fed into the certificated system, thereby increasing rather than diverting from, its freight traffic. As discussed earlier and as stated in EDR-341, the larger aircraft size is needed for these markets served by air taxis, and poses no substantial threat to other classes of air carriers.

In any event, whatever public interest argument may otherwise be sought to be implicitly grounded in the Act as indicative of congressional policy favoring the protection of certificated carriers from diversion, that argument has been invalidated as to domestic all-cargo service by Pub. L. 95-163. If nothing else, Congress has now made it unequivocally clear that there is to be no "route protection" or other artificial restraint on freedom of competition in providing domestic all-cargo air services.[8] Consequently, certificated air carriers can no longer be heard to complain that there is any public interest against competitors' diversion, as such, insofar as domestic all-cargo service is concerned.

Under the second part of the § 416 test, FTL and TIA argue that there are neither unusual circumstances surrounding, nor limited operations of, air taxis capable of operating this size of aircraft. They contend that obtaining certification under the new, easier requirements of § 418, no longer entails a significant burden for air taxis operating 18,000 pound aircraft.

The Board, however, agrees with the commuters that, due to the limited extent of air taxi operations, and the surrounding unusual circumstances of the air taxi market, even certification under § 418 would be an unwarranted burden on these small carriers. As we found in the *Part 298 Investigation*, air taxis provide a financially risky, unsubsidized service, which needs maximum operational flexibility to best serve its small community markets. It is our opinion that even the reduced requirements of a § 418 certificate would needlessly hamper this flexibility. For example, tariff filings require additional initial and on-going monthly expenses, future rate changes would be delayed for 60 days under the tariff mechanism, and market response would be delayed by the forms and regulations of the § 418 certificate. Taken individually, these requirements may not appear an undue burden, but taken as a whole, the Board views them and similar regulations as an unwarranted burden for this unusual type of carrier and the services provided. Equally important, however, in determining whether such requirements are a burden, is the limited extent of air taxi all-cargo operations. For example, in 1976, the largest all-cargo commuter, Federal Express, carried 46.9 million revenue ton-miles of cargo, and the next largest carried only 3.4 million RTM's of cargo. In comparison, for the same year, FTL's freight, express and mail revenue ton-miles amounted to 977,065,000; while TIA's (without including data from Saturn, which it acquired in 1976) civilian freight ton miles amounted to 51,441,427. Only nine commuter carriers transported 5,000,000 or more pounds of cargo, while approximately one-third of the commuters carried less that 50,000 pounds. Further, only 16 commuter airports handled 5,000,000 or more pounds of cargo; while over half handled less than 50,000 pounds. Of 252 commuter air carriers, only 31, or approximately 12.5 percent, conducted all-cargo operations in 1976.

TIA has made several requests to the Board to modify the proposed rules if adopted. First, supported by Rich, it asks that the Board give certificated carriers authority to provide service with similar aircraft under the same exemptions as air taxis. If such authority is not granted, the certificated carriers are placed at an unfair competitive advantage, claims TIA. The possibility of extending Part 298 exemption authority to those few members of the certificated class of carriers operating a number of small aircraft is outside the scope of this proceeding. This question, however, will be considered in the upcoming rulemaking fully implementing § 418.

We are also denying TIA's request for a full evidentiary hearing. The Board is not required to use evidentiary hearing procedures in exercising its exemption authority. Particularly where the exemption has general applicability to an entire class of carriers, an informal rulemaking is a suitable procedure on which to base the requisite legislative findings under § 416. In this case, there have been extensive answers, comments and reply comments, which have presented facts and arguments on all sides of the issue. No material factual issues have been raised of the kind that require resolution through oral testimony and cross-examination. The Board finds, therefore, that the record is sufficient to make the required findings under § 416, and that no further procedures are needed.

TIA's final request is to limit the application of this expanded all-cargo air taxi aircraft to interstate air transportation. It argues that no specific need has been shown for extending this change to foreign air transportation, and that a limitation to interstate markets is consistent with the geographic scope of § 418. We see no reason to limit this amendment of Part 298 as TIA requests. Air taxis have always been permitted to operate in foreign air transportation, and TIA has presented no legal or economic reason why all-cargo air taxis should be so restricted. While § 418 does apply only to domestic air transportation, we reiterate our view that Pub. L. 95-163, in providing certain limits on certificated all-cargo service deregulation affecting aircraft of all sizes, does not indicate that air taxi operators, providing only small aircraft cargo service, should also be so limited. We are thus adopting the rule as proposed, which permits 18,000 pound aircraft to be operated throughout the present geographical scope of Part 298, except for Hawaii and Alaska.[9]

The Teamsters oppose expansion of the aircraft size for all-cargo air taxis for the same reasons they oppose legislation increasing the aircraft size if air taxis in general. They argue that expansion of air taxi operations could cause loss of jobs, and would increase the danger of safety-related accidents, since these carriers are not as strictly regulated by the FAA as others. Their primary complaint, however, is that the Board has not considered the impact on labor of any change in the air taxi exemption.

We have seen no evidence that the expansion of air taxi all-cargo aircraft to 18,000 pounds will have the adverse effects on employment claimed by the Teamsters. In fact, as stated above, it is our opinion that this rule will lead to an increase in all-cargo air taxi operations and, in turn, to an increase in the cargo operations of scheduled carriers, thus providing an increased opportunity for employment. Moreover, as we discussed in EDR-341, several shippers and civic parties state that this amendment is needed to spur or to continue the economic development of the areas and communities served by air taxis, which again should expand employment opportunity.

The Board finds that because this amendment removes a restriction, and the public will benefit from the rule taking effect without delay, good cause is shown to make it effective immediately.

[8] See new paragraph (b) of section 102 of the Act, as added by section 16 of Pub. L. 95-163.

[9] Upon review of the comments that we shall receive on EDR-341A, we shall subsequently decide whether to extend this amendment to Hawaii or Alaska, or both.

Accordingly, the Board amends Part 298 of its economic regulations (14 CFR Part 298) as follows:

1. Paragraph (i) of § 298.2 is revised to read as follows:

§ 298.2 Definitions.

* * * * *

(i) "Large aircraft" means: (1) Any aircraft used in passenger service having a maximum seating capacity of more than 30, or a maximum payload capacity of more than 7,500 pounds; *Provided, however,* That for the purposes of this part, large aircraft shall include all models of the Convair 240, 340, and 440; Martin 202 and 404; F-27, and FH-227; and Hawker-Siddeley 748; and shall also include any other aircraft with a maximum zero fuel weight in excess of 35,000 pounds.

(2) Any aircraft used solely in all-cargo service having a maximum payload capacity of more than 18,000 pounds, except that in connection with operations within the states of Hawaii and Alaska, such aircraft shall have a maximum payload capacity of more than 7,500 pounds.

2. Paragraph (l) of § 298.2 is amended by adding a second proviso at the end of the paragraph to read as follows:

§ 298.2 Definitions.

* * * * *

(l) "Maximum payload capacity" means * * *

Provided further, however, That for any aircraft used solely in all-cargo service under the exemption provided by this part, the maximum payload capacity shall be 18,000 pounds, based upon an aircraft having a maximum zero fuel weight of 55,000 pounds or less, or any aircraft developed subsequent to September 15, 1977, which has a higher zero fuel weight, but only a designed maximum payload of 18,000 pounds or less.

(3) Section 298.31 is revised to read as follows:

§ 298.31 Scope of service and equipment authorized.

Nothing in this part shall be construed as authorizing the operation of large aircraft in air transportation, and the exemption provided by this part to air taxi operators which register and reregister with the Board extends only to the direct operation in air transportation in accordance with the limitations and conditions of this part of aircraft having maximum passenger capacities and maximum payload capacities as defined in §§ 298.2(i) and 298.2(l) of Subpart A of this part, except that with respect to operations conducted within Hawaii and Alaska such exemption extends only to such operation of aircraft having a maximum payload capacity of 7,500 pounds or less.

(Sec. 204, 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 771 (49 U.S.C. 1324, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16064 Filed 6-8-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. Nos. 4, 16]

PART 404—FEDERAL OLD-AGE SURVIVORS, AND DISABILITY INSURANCE BENEFITS

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Extension of Special Age 72 Payments and Supplemental Security Income Benefits to the Northern Mariana Islands

AGENCY: Social Security Administration, HEW.

ACTION: Final rules.

SUMMARY: The final amendments provide that people residing in the Northern Mariana Islands (NMI), who are otherwise qualified, are eligible for special age 72 payments and supplemental security income (SSI) benefits in the same manner and under the same conditions as people now residing in the 50 States and the District of Columbia. Individuals who received interim United States citizenship under the Constitution considered citizens and qualified aliens of the United States; and residents of the NMI will be considered residents of the United States. These final amendments to the regulations are designed to implement section 502(a) of the Northern Marianas Convenant (Pub. L. 94-241; 90 Stat. 268).

DATE: These amendments shall be effective June 9, 1978. Comments will be accepted until July 10, 1978.

ADDRESSES: Although the notice of proposed rulemaking is being dispensed with for the reasons cited in the Supplementary Information section consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments received in response to this notice will be available during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Mr. S. J. Weissman, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7341.

SUPPLEMENTARY INFORMATION: On October 24, 1977, President Carter, in accordance with sections 1003(b) and 1004(b) of the Northern Marianas Covenant (Pub. L. 94-241; 90 Stat. 277), proclaimed that the Constitution of the NMI and certain sections and articles of the Northern Marianas Covenant shall come into full force and effect on January 9, 1978 (42 FR 56593). The Covenant had been approved by joint resolution of Congress on March 24, 1976, and had previously been approved by the NMI District Legislature on February 20, 1975, and by the people of the NMI voting in a plebiscite on June 17, 1975.

The Covenant provides that the NMI of the Trust Territory of the Pacific Islands will become a commonwealth in political union with the United States upon termination of the Trusteeship Agreement (i.e., about 1981). Until then, the NMI will be in a transition period with self-government.

As herein pertinent, section 502(a) of the Covenant (effective January 9, 1978) provides: "[t]he following Laws of the United States * * * will apply to the Northern Mariana Islands * * * (1) * * * Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several States * * *" Section 228 of Title II authorizes special age 72 payments to certain uninsured individuals. Title XVI (SSI program) authorizes benefit payments to needy individuals who are age 65 or older, or blind, or disabled.

When social security programs are extended to new geographical areas eligibility is ordinarily provided (unless express exceptions are prescribed) on a basis which is comparable to that for individuals who are already covered by the program. Therefore, section 502(a) of the Covenant is being interpreted to permit residents and individuals who received interim United States citizenship status under the Constitution of the NMI, or quali-

fied aliens in the NMI to qualify for special age 72 payments and SSI benefits just as if they were residents of one of the 50 States or the District of Columbia and citizens of (or qualified aliens in) the United States. Any other interpretation would not give effect to the pertinent parts of section 502(a) of the Covenant.

Since section 502(a) of the Covenant was effective January 9, 1978, operating personnel have been alerted to this change and the need to process such cases in a timely manner. This action was taken to insure prompt recognition and equitable handling of these cases, on an interim basis, until final regulations are in effect.

The amendments to the regulations are being published in final. They are substantive rules which extend special age 72 payments and SSI benefits to the people of the NMI as required by section 502(a) of Pub. L. 94-241. This section, as previously mentioned, went into effect by Presidential Proclamation January 9, 1978, and the rules have already been implemented by the Social Security Administration. Consequently, the Secretary finds that it would be unnecessary and impracticable for the Social Security Administration to publish the rules with Notice of Proposed Rulemaking.

Accordingly, Part 404 and Part 416 of 20 CFR are being amended as follows:

1. Section 404.374(a) concerning residency and citizenship requirements for entitlement to special age 72 payments is being amended to include people in the NMI, effective January 9, 1978.

2. Section 404.379 concerning suspension of special age 72 payments is being amended to provide that individuals residing in the NMI and receiving special age 72 benefits will be considered residents of the United States and, thus, are not subject to suspension while residing in the NMI.

3. Sections 416.120(c) (9) and (10), are being amended to expand the definitions of "State" and "United States" to include the NMI for purposes of the SSI program.

4. Section 416.202(b) concerning residency and citizenship requirements for SSI benefits is being amended to include people in the NMI, effective January 9, 1978.

5. Section 416.1327(a) concerning suspension of SSI benefits due to absence from the United States is being amended by expanding the definition of "outside the United States" to mean outside the 50 States, the District of Columbia, and the NMI and, thus, residents of the NMI would not be subject to suspension of their SSI benefits.

(Sec. 228, 1102, 1614(a)(1) and 1631 of the Social Security Act as amended, 80 Stat. 67, 49 Stat. 647, 86 Stat. 1471, 86 Stat. 1475; (42 U.S.C. 428, 1302, 1382c, 1383) sec. 502(a) of Pub. L. 94-241, 90 Stat. 268)

(Catalog of Federal Domestic Assistance Program No. 13.804 Special Benefits For Persons Aged 72 or Over; No. 13.807 Supplemental Security Income Program)

NOTE.—The Social Security 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.

Dated: March 27, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: May 31, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 404 and Part 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

1. Section 404.374 is amended by revising paragraph (a)(3) and adding subparagraphs (3)(iii) and (3)(iv) to read as follows:

§ 404.374 Special payments at age 72 to certain uninsured individuals.

(a) *Requirements for entitlement.* An individual is entitled under section 228 of the Act to special payments at age 72 if such individual:

* * * * *

(3) Is a resident of one of the 50 States, the District of Columbia, or effective January 9, 1978, the Northern Mariana Islands and is:

(i) A citizen of the United States; or

(ii) An alien lawfully admitted for permanent residence who has resided in the United States (as defined in sec. 210(i) of the Act, i.e., the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa) continuously during the 5 years immediately preceding the month in which he files application for special payments under section 228; or

(iii) An individual who meets the requirement of the interim definition of United States citizen in section 8 of the Schedule on Transitional Matters of the Constitution of the Northern Mariana Islands; or

(iv) An alien lawfully admitted for permanent residence in the Northern Mariana Islands who has continuously during the 5 years immediately preceding the month in which he or she files an application for special benefits under section 228 resided in: The Northern Mariana Islands; the United States (having been lawfully admitted for permanent residence); or the Northern Mariana Islands and the United States.

2. Section 404.379 is being amended as follows:

§ 404.379 Suspension where individual is residing outside the United States.

No special payment under section 228 for any month may be paid if, during such month, the individual entitled to such special payment is not a resident of one of the 50 States, the District of Columbia, or effective January 9, 1978, the Northern Mariana Islands.

3. Section 416.120 is amended by revising paragraphs (c) (9) and (10) to read as follows:

§ 416.120 General definitions and use of terms.

* * * * *

(c) *Miscellaneous.* As used in this part unless otherwise indicated:

* * * * *

(9) "State", unless otherwise indicated, means a State of the United States, the District of Columbia, or effective January 9, 1978, the Northern Mariana Islands.

(10) The term "United States" when used in a geographical sense means the 50 States, the District of Columbia, and effective January 9, 1978, the Northern Mariana Islands.

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4. Section 416.202 is amended by revising paragraph (b) and adding paragraphs (b)(3), (b)(4), and (b)(5) to read as follows:

§ 416.202 Eligibility requirements: General.

* * * * *

(b) Is a resident of the United States, as defined in § 416.120(c)(10) and is:

(1) A citizen of the United States, or

(2) An alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1153, 1182)), or

(3) An individual who meets the requirements of the interim definition of United States citizen in section 8 of the Schedule on Transitional Matters of the Constitution of the Northern Mariana Islands, or

(4) An individual who is born in the Northern Mariana Islands after June 17, 1975, who is a citizen of the Trust Territory of the Pacific Islands and who is domiciled in the Northern Mariana Islands or in the United States, or

(5) An alien lawfully admitted for permanent residence in the Northern Mariana Islands, or otherwise permanently residing in the Northern Mariana Islands under color of law.

(5) Section 416.1327 is amended by revising paragraph (a) to read as follows:

§ 416.1327 Suspension due to absence from the United States.

(a) *Suspension effective date.* A recipient is ineligible for benefits beginning with the first full calendar month he is outside the United States, and his payments are subject to suspension for such month. For purposes of this paragraph, "outside the United States" means outside the 50 States, the District of Columbia, and effective January 9, 1978, the Northern Mariana Islands. After a recipient has been outside the United States for 30 consecutive calendar days, he is considered as remaining outside the United States until he has returned to and remained in the United States for a period of 30 consecutive calendar days. Each calendar day consists of a full 24-hour day.

Example 1: * * *
Example 2: * * *
Example 3: * * *
Example 4: * * *

* * * * *

[FR Doc. 78-15792 Filed 6-8-78; 8:45 am]

[3810-01]

Title 32—National Defense

CHAPTER XVIII—DEFENSE CIVIL PREPAREDNESS AGENCY

PART 1801—CONTRIBUTIONS FOR CIVIL DEFENSE EQUIPMENT

Miscellaneous Amendments

AGENCY: Defense Civil Preparedness Agency (DCPA).

ACTION: Final rule.

SUMMARY: These amendments delete some portions and revise other portions of 32 CFR 1801 to reflect the current criteria and procedures already applicable to the obtaining of Federal financial contributions under section 201(i) of the Federal Civil Defense Act of 1950, as amended. The amendments in this part are editorial in nature, do not impose new restrictions and are already in effect under DCPA guidance. Hence they are effective June 9, 1978.

EFFECTIVE DATE: June 9, 1978.

FOR FURTHER INFORMATION CONTACT:

William L. Harding, Acting General Counsel, Defense Civil Preparedness Agency, Room 1C521, Pentagon, Washington, D.C. 20301, 202-695-3763.

SUPPLEMENTARY INFORMATION: The action taken is essentially one of editing to delete rules which, due to changes in law and other Federal regulations are no longer applicable, and to update references to set forth new citations.

DCPA has instituted a Civil Preparedness Guide (CPG) and Civil Preparedness Circular (CPC) series as described in 32 CFR 1800.20 (42 FR 34880, July 7, 1977) to replace the Federal Civil Defense Guide. CPG 1-3 entitled "Federal Assistance Handbook" is furnished to all participating States and political subdivisions as part of the grant agreement. It contains detailed guidance on submission of project applications, billings and payment, allowable costs and grant program criteria, including standards required pursuant to OMB Circular No. A-102 (42 FR 45828) and other Federal regulations and statutes.

The definitions section is being alphabetized. Also, for brevity and clarity of text the terms "grantee," "CPG 1-3," "matching share," and "State" are being defined. This will not expand or restrict the eligibility of grantees, the applicability of DCPA manuals and circulars, the amount of DCPA's contribution, or the coverage of the term "State" from that in effect under existing DCPA criteria set forth in the body of the rules and regulations governing DCPA's financial assistance program under section 201(i) of the Federal Civil Defense Act of 1950, as amended. The cost principles set forth in Federal Management Circular 74-4 (41 CFR Subpart 1-15.7) formerly, OMB Circular No. A-87 have been set forth in appendix H of CPG 1-3 as applicable to Federal assistance under DCPA programs. The definition of "allowable costs" is being updated to delete the reference to BoB Circular A-87, which has been rescinded.

Under Pub. L. 94-519 (90 Stat. 2451) Federal agencies are prohibited from obtaining excess personal property for purposes of furnishing such property to grantees of such agencies except as set forth in subsection 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) as amended. The provisions on "loan of excess personal property" are being revised to reflect this change in the law.

DCPA long ago stopped its practice of purchasing civil defense equipment for transfer of ownership to a grantee upon its payment to DCPA of one-half the purchase price. Procurement standards set forth in appendix E of CPG 1-3 are as required by attachment N of OMB Circular No. A-102. Except as required for compliance with Federal law, including Executive orders, DCPA is precluded from imposing additional procurement standards on grantees. The provisions on procurement are being revised to delete reference to Federal procurement and any requirements in excess of Federal standards.

Pub. L. 94-361 (90 Stat. 932) approved July 14, 1976, added a provision to the Federal Civil Defense Act of 1950, as previously amended (50 U.S.C. App. 2251-2297) to provide specific authority for the use of civil defense personnel, activities, organizational equipment, materials, and facilities in any area of the United States which suffers a disaster other than disaster caused by enemy attack. Prior to this, DCPA had authorized such use under its general authority where it served to provide experience for civil defense units without impairing the availability of the resources for civil defense. These provisions in the regulations are being changed to reflect the specific language of the statute.

In consonance with U.S. Supreme Court decisions concerning oaths generally, DCPA no longer directs States or their political subdivisions to require the taking of an oath (of the character provided for in section 403 of the Federal Civil Defense Act of 1950, as amended) by each person appointed to serve in a State or local civil defense organization. Therefore, the provisions for a loyalty oath are being deleted.

CPG 1-3 contains provisions of financial management, property management, and grant closeout procedures which reflect the requirements of OMB Circular No. A-102. Provisions which deal with these matters are revised to delete those which appear to exceed such standards and to add references to CPG 1-3.

Under the provisions of CPG 1-3 reflecting the requirements of attachment N of OBM Circular No. A-102, the Federal Government retains an interest in nonexpendable property purchased with Federal financial assistance at a unit price of $1,000 or more, as long as it has some fair market value. One State has pointed out that as a joint applicant with its political subdivision which procures an item, a State may find it is legally unable to guarantee payment of a share of the market value to the United States of America, but that no such constraint would apply to guaranteeing return of all or part of the Federal financial contribution. In order to accommodate State law, provision is being made in the regulations to limit the State's guarantee in such cases so as not to exceed the amount of the Federal financial contribution for the property in question.

Notice and public participation regarding these amendments in unnecessary because DCPA is, without choice,

only implementing requirements laid upon it by the Department of Defense, the Office of Management and Budget, and other similar agencies. It is not originating a requirement within DOD.

32 CFR Part 1801 is amended as follows:

1. Section 1801.2, "Definitions" is revised to read as follows:

§ 1801.2 Definitions.

Except as otherwise stated, when used in the regulations in this part, the meaning of the listed terms are as follows:

(a) *Act.* The Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251-2297).

(b) *Allowable costs.* Except where Federal assistance for such costs is restricted or prohibited by law, the cost principles set forth in attachment H of CPG 1-3, as required by FMC 74-4 (41 CFR subpart 1-15.7) apply in determining allowability and allocability of costs incurred by States and their political subdivisions. Costs which are allowable only with the approval of the grantor agency are allowable only to the extent so provided in CPG 1-3. No cost is allowable unless it is required to meet civil defense needs determined in accordance with the provisions of CPG 1-3.

(c) *Civil defense equipment.* Facilities, materials, and organizational equipment for which the DCPA approves financial contributions under section 201(i) of the act.

(d) *CPG 1-3.* DCPA's "Federal Assistance Handbook" promulgated as Civil Preparedness Guide (CPG) 1-3 as amended by numbered changes thereto and by Civil Preparedness Circulars (CPC) as provided in 32 CFR 1800.20 (42 FR 34880).

(e) *DCPA.* Defense Civil Preparedness Agency. Where action is to be taken, this term denotes the Director or other duly authorized official(s) acting under the authority delegated to the Secretary of Defense by Executive Order 10952 (26 FR 6577).

(f) *Facilities.* Buildings, shelters, and utilities, exclusive of land.

(g) *Grantee.* A State, and where applicable, a political subdivision joining in the State's application, which holds a DCPA-approved project application for Federal financial assistance under section 201(i) of the act, which has not been closed out by completion or termination under DCPA procedures set forth in CPG 1-3.

(h) *Materials.* All materials, supplies, medicines, equipment, component parts, and technical information (including training courses) and processes necessary for civil defense.

(i) *Organizational equipment.* Equipment (other than materials and facilities) determined by the DCPA to be (1) necessary to a civil defense organization, as distinguished from personal equipment, and (2) of such type or nature as to require it to be financed in whole or in part by the Federal Government. It shall not be construed to include those items which the local community normally utilizes in combating local disasters except when required in unusual quantities dictated by the requirement of the civil defense plans.

(j) *Program.* A course of action adopted by a State (or political subdivision) in a specific civil defense area of activity.

(k) *Project.* A definable part of a program which is complete in itself.

(l) *State.* Any of the several States; the District of Columbia; the Commonwealth of Puerto Rico; the Government of the Northern Mariana Islands; the territories of American Samoa, Guam, and the Virgin Islands; and interstate civil defense authorities established by interstate compact pursuant to section 201(g) of the act.

2. Section 1801.3, "Request for contributions," is revised to read as follows:

§ 1801.3 Project applications.

(a) *Forms and assurances.* A request for a Federal financial contribution shall be made on a DCPA-prescribed project application form conforming to the requirements of attachment M of OMB Circular No. A-102, and, in addition to acknowledgement of the applicant's receipt of a copy of CPG 1-3 shall contain assurances of and agreement for compliance with the regulations, policies, guidelines and requirements of DCPA regulations in chapter XVIII of title 32 of the Code of Federal Regulations, CPG 1-3, FMC 74-4 (41 CFR subpart 1-15.7) and OMB Circular No. A-102.

(b) *Scope.* The project application should cover a definable civil defense purpose, complete in itself. Although explanatory information for cost estimate purposes must be detailed, applicants are to define the project in terms of civil defense measures to be undertaken rather than as a shopping list for purchase. For example, in terms of providing a civil defense warning system for a given geographical area's population, the specific number and types of sirens and other equipment expected to be required would be indicated as background information for the budget summary.

(c) *Signature.* The project application must be signed by an authorized official of the State and in the case of a political subdivision joining the State in its application, also by an authorized official of such political subdivision. Except as otherwise required by law, no authorized official will be required to sign the same project application more than once. However, should changes in the scope of the project, the applicable terms and conditions, or the amount of funding be requested, an authorized official representing each applicant may be required to sign a revision or an addendum on the same form as the original, but no applicant shall be required to provide information which was previously provided in the original application.

(d) *Procedures.* Procedures for the processing of project applications are set forth in CPG 1-3. They include provisions for informing the applicant of the basis for any rejection of its application.

(e) *Deadlines.* Project applications, addenda thereto, revised applications, and requests for changes or supplements to approved grants must be timed to accommodate fiscal year limitations on the obligation of Federal funds. (See § 1801.8 of this part.)

(f) *Construction projects.* Project applications for all grants where a major portion of the project involves construction work must be submitted on a DCPA-prescribed project application form conforming to the requirements of attachment M of OMB Circular No. A-102 pertaining to application for Federal assistance for construction programs, and the project must be carried out in accordance with the applicable requirements of DCPA regulations for federally assisted construction set forth in part 1812 of this chapter. Some examples of projects where a major portion normally would be considered to involve construction work are those for incorporting an emergency operating center in the construction of a new public building, the modification of a portion of an existing public building for use as an emergency operating center, the erection of antenna towers for a civil defense communications system, the erection of towers or poles for sirens for use in a civil defense warning system, and the installation of an emergency generator for civil defense use.

(g) *Appeals.* Upon rejection of a project application by the Regional Director, DCPA on a basis other than a lack of available funding, the applicant may appeal to the Director, DCPA, under procedures set forth in CPG 1-3.

3. Section 1801.4, "Conditions of contributions," is revised to read as follows:

§ 1801.4 Conditions of contributions.

DCPA constributions for civil defense equipment costs are subject to the following conditions:

(a) *Certification.* The making of a request for a contribution shall constitute a certification by the State (and political subdivision, where applicable) that the State's matching share is available or will be available before

Federal funds are disbursed; that the civil defense equipment, regarding which a contribution is requested, is needed by the applicant over and above its other-than-civil defense needs, in order to meet its requirements under civil defense operational plans approved by DCPA (local plans are approved as part of the State plans); and that the State (and political subdivision, where applicable) will comply with the policies, guidelines and requirement contained in the Assurances section of the project application, including without limitation, DCPA regulations (Code of Federal Regulations, Title 32, Subtitle A, Chapter XVIII—Defense Civil Preparedness Agency) and with criteria and procedures set forth in CPG 1-3.

(b) *Standards and specifications.* Civil defense equipment procured by the State (or political subdivision) must meet such DCPA-prescribed minimum standards and specifications as are set forth in CPG 1-3 or other DCPA guidance material refereneed therein. Application of such standards and specifications to unique installation or uses of equipment shall be as determined by DCPA following receipt of full information in accordance with procedures set forth in CPG 1-3.

(c) *Financial management.*—(1) *System.* Grantees shall establish and maintain a financial management system in conformity with the standards set forth in appendix C of CPG 1-3 as required by attachment G of OMB Circular No. A-102.

(2) *Reporting.* Grantees shall comply with the uniform financial reporting requirements set forth in section 2 of chapter 3 of CPG 1-3, as required by attachment H of OMB Circular No. A-102.

(d) *Property management.*—(1) *Standards.* Grantees shall comply with the standards set forth in appendix D of CPG 1-3, as required by attachment N of OMB Circular No. A-102, governing the utilization and disposition of property which has been furnished by the Federal Government, acquired in whole or part with Federal funds, or whose cost has been charged to a project supported by a Federal grant.

(2) *Release of Federal interest.* As to the requirement under appendix D of CPG 1-3 (attachment N of OMB Circular No. A-102) for payment to DCPA of an amount equal to the Federal share of its fair market value prior to disposal or other than authorized use of an item of nonexpendable personal property procured by a political subdivision at a unit acquisition cost of $1,000 or more, where guaranty by the State of such payment to DCPA is not permissible under State law, the guaranty by the State, as joint applicant with its political subdivision shall be limited to an amount not to exceed the amount of the Federal contribution paid by DCPA toward procurement of the particular item of property.

(3) *Use.* With regard to application of the property management shardards set forth in appendix D of CPG 1-3, "purpose of the grant program," includes use for providing emergency assistance in any area of the United States which suffers a disaster other than a disaster caused by enemy attack. Detailed guidance is set forth in CPG 1-3.

(e) *Monitoring and reporting program performance.* Grantees shall comply with the provisions set forth in appendix F of CPG 1-3, as required by OMB Circular No. A-102, regarding the monitoring and reporting of grant-supported activities and programs.

(f) *Records retention and availability.* Financial records, supporting documents, and all other records pertinent to a grant shall be retained by the grantee and made available as prescribed by appendix B of CPG 1-3 in accordance with the requirements of OMB Circular No. A-102.

§ 1801.5 [Reserved]

4. The provisions of § 1801.5, "Project application approval," are deleted and the section number is reserved.

5. Section 1801.6, "Billing and payment" is revised by deleting paragraphs (a) and (c). Since only one paragraph remains, the paragraph letter designation "(b)" is deleted. As so revised, section 1801.6 reads as follows:

§ 1801.6 Billing and payment.

When civil defense equipment procured by a State (or political subdivision) has been delivered to the State (or political subdivision), the DCPA, upon the receipt of proper billing, shall make payment, by check drawn against the Treasury of the United States, to the authorized official of the State or political subdivision designated by the State.

§ 1801.7 [Amended]

6. Section 1801.7, "Advances of Federal funds," is amended by substituting "OMB Circular No. A-102" in place of "FMC 74-7 (34 CFR 256)" wherever appearing.

7. Section 1801.8, "Limitations on obligating contributions funds" is revised to read as follows:

§ 1801.8 Limitations on amount and obligation of Federal funds.

(a) *Federal-grantee share.* The Federal contribution shall not exceed 50 percent of the total allowable cost of the civil defense equipment. The grantee's share of such cost may be derived from any source it determines consistent with its laws; *Provided, however,* That except as otherwise expressly provided by Federal law, no part of the grantee's share has been or will be derived from Federal funds. No Federal contribution shall be made for the procurement of land. The value of any land contributed to the program or project shall be excluded from the computation of the grantee's share.

(b) *Fiscal year control.* Federal funds are available for obligation under the program in this part on a Federal fiscal year basis (October 1 to September 30, inclusive) and cannot be used to cover obligations incurred or expenditures made by a grantee prior to the date of first availability of the appropriation otherwise remaining available for obligation. With regard to services, such as maintenance and utility services, being rendered over a continuing period of time, contributions shall be only for eligible services required to serve the civil defense needs of the grantee during the Federal fiscal year current at the time the project application is approved by DCPA.

8. Section 1801.9, "State procurement," is revised to read as follows:

§1801.9 Procurement.

Grantees shall comply with the provisions of Appendix E of CPG 1-3, as required by OMB Circular No. A-102, regarding the procurement of supplies, equipment, construction, and other services with the assistance of Federal funds. Included, without limitation, is a provision that, with certain specified exceptions, formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement. Where such advertised bids are obtained, the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the grantee, price and other factors considered and DCPA's contribution will be limited to its share of the allowable costs under such lowest acceptable bid.

§1801.10 [Reserved]

9. The provisions of section 1801.10, "Federal procurement," are deleted and the section number is reserved.

§1801.11 [Amended]

10. Section 1801.11, "Compliance," is amended by substituting " CPG 1-3" in place of "DCPA guidance material" in paragraph (a).

Dated: June 1, 1978.

BARDYL R. TIRANA,
Director, Defense Civil Preparedness Agency.

[FR Doc. 78-16013 Filed 6-8-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICES

Postal Service Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes and publishes the full text of numerous miscellaneous revisions of the Postal Service Manual. Some of the revisions are minor, editorial, and technical; others are substantive. As to substantive changes, the Postal Service previously published in the FEDERAL REGISTER the complete text of those changes in the course of informal rulemaking proceedings. Publication of all the changes at this time is in accordance with the incorporation by reference in the FEDERAL REGISTER of all amendments to chapter I of the Postal Service Manual.

EFFECTIVE DATE: February 20, 1978, except that the revisions of the packaging regulations covered by .2a–r in the Explanation of Changes in the Supplementary Information below, became effective March 9, 1978 (43 FR 4988); except that the revision of the mailing list sequencing service covered by .2s in the Explanation of Changes became effective August 15, 1977 (42 FR 38904), with an extension of the grace period published February 22, 1978 (43 FR 7317); except that the revision to the regulations on solicitations in the guise of bills covered by .2u became effective December 8, 1977 (42 FR 58169); except that the revisions to the regulations on pressure sensitive labels covered by .2w and .3b became effective February 22, 1978 (43 FR 3118); except that the revision of the regulations on business reply mail covered by .3a became effective February 10, 1978 (43 FR 1619); except that the revision to the regulations on identification of mail of nonprofit organizations covered by .3i became effective January 1, 1978 (42 FR 41634).

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, 202-245-4638.

SUPPLEMENTARY INFORMATION: Chapter I of the Postal Service Manual, which has been incorporated by reference in the FEDERAL REGISTER (see 39 CFR 111.1), has been amended by the issuance of Post Office Services (Domestic) Transmittal Letter 43, issue 119, dated February 20, 1978.

Consistent with 39 CFR 111.3, the amendments made by Transmittal Letter 43, issue 119, are hereby published in full text, and notice of this publication is added as an amendment to § 111.3. In addition, the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the manual will receive these amendments automatically from the Government Printing Office. (For other availability of Chapter I of the Postal Service Manual, see CFR 111.2.)

Explanation of the changes follows:

EXPLANATION OF CHANGES

.1 Subchapter 110.

Revised 113.214 to specify that management sectional center managers or their designees must approve the opening of windows offering specialized service.

.2 Subchapter 120.

a. Amended 121.1 to set forth postal policy on acceptance, to reference other applicable parts of the manual, and to discuss costs.

b. Amended 121.2 to further refine the definitions of loads.

c. Amended 121.31 to reference the National Safe Transit Test Standards.

d. Amended 121.32 to reference other applicable sections of the manual to differentiate fiber box bursting strengths in relation to maximum weight limits between easy and average and difficult loads and to specify reinforcement requirements in accordance with industry standards.

e. Amended 121.322 to deemphasize the use of wrappers on boxes.

f. Amended 121.323 according to established commercial standards.

g. Modified illustration 2 to show the use of tape closure and reinforcement.

h. Amended 121.325 to specify wall thicknesses for tubes and eliminate masking and cellophane tape for end closures.

i. Updated illustrations 3 and 4.

j. Amended 121.34 to delete reference to twine and cord.

k. Amended 121.342 to clarify requirements on tape and package surfaces.

l. Amended 121.343 to expand on adhesives requirements and set temperature serviceability limits.

m. Amended 121.344 to de-emphasize the use of twine and cord.

n. Modified illustration 5 to show only adequate closures.

o. Amended 121.4 to require a reading distance for marking of 30 inches, preclude extraneous information which will be confused with ZIP codes and require firm adherance of envelopes to containers.

p. Amended 121.51 to cover only stationery items.

q. Added 121.6a to provide for test packages which do not otherwise meet requirements.

r. Added 121.7 to provide packaging guidelines on specific classes of items.

s. Revised 122.53 to modify mailing list sequencing service offered to customers by correcting wrong addresses and providing new ones if mailers meet certain specific requirements.

t. Changed title of 122.7 to Second-Class and Controlled Circulation Publications.

u. Amended 123.41 to prescribe the typography, layout and color for solicitations in the guise of bills, invoices or statements of account which bear the statutory disclaimer of 39 U.S.C. 3001(d)(2)(A).

v. Changed reference in 123.44b to 17 U.S.C. 601-603.

w. Revised 125.321 to describe the use of pressure sensitive package labels by publishers and mailers to indicate the makeup and destination of packages of second- and bulk third-class mail.

x. Revised 125.53, 125.57, 125.662, and 127.743 to delete references to form 3542. The second-class and controlled circulation publication postage computation exhibits changed using 3541.

y. Amended 125.661 to require examination of copies of second-class publications.

z. Amended 125.662 to agree with 132.13.

aa. Amended 125.67 to provide a new rate for nonsubscriber copies of second-class which are presorted and commingled with the mailing or subscriber copies.

bb. Eliminated 125.8, Controlled Circulation Publications, and replaced it with a new section outlining new verification procedures for publications that are not authorized to contain general advertising. These procedures replace those formerly in 125.66.

.3 Subchapter 130.

a. Amended 131.233 to emphasize that Business Reply Mail Permit holders must pay the normal applicable BRM postage and fees on BRM pieces which have postage stamps affixed.

b. Amended 132.13 to provide a new rate for nonsubscriber copies of second-class which are presorted and commingled with the mailing or subscriber copies.

c. Amended 132.228 and 132.461 to agree with 132.13.

d. Eliminated 133.4, Filing of Marked Copy, and replaced it with a new section giving examples of enclosures.

e. Added 133.5 and 133.6 to provide requirements for controlled circulation publications and to provide instructions for Postal Service employees who accept and verify mailings of publications at the controlled circulaion postage rates.

f. Added 133.8 to provide a definition for advertisement.

g. Removed regulation prohibiting action organization from 134.522d.

h. Revised 134.431 to describe the use of pressure sensitive package labels by publishers and mailers to in-

dicate the makeup and destination of packages of second- and bulk third-class mail.

i. Added 134.58 to require that an organization authorized to mail at the special bulk third-class rates for qualified nonprofit organizations to put its own name either as a return address on the mailing piece or in a prominent location on the message. Such an organization may not use a pseudonym or bogus name of a person or organization on its mail. The purpose of the rule is to avoid the appearance of unqualified mailings, as would be the case if only the name of an individual or a commercial enterprise were to appear on the mailing piece or the message.

j. Revised 135.131 to correct reference.

k. Revised 135.14 to correct reference.

l. Revised 135.25 to allow mailers of special rate fourth-class to sort to BMC's instead of three-digit ZIP codes when mailing at the present level B rate.

m. Revised 135.31 to correct numbering and reference.

n. Revised 135.543 to correct reference.

o. Amended 137.14c to state more specifically the mailability criteria applicable to franked mail.

p. Amended 137.14f to clarify that franked mail is eligible for any of the special services upon proper endorsement.

q. Amended 137.151 to refer to "franked mail" rather than "official correspondence."

r. Deleted 137.22f which authorized the use of penalty mail for certain copyright articles.

.4 Subchapter 140.

a. Revised 141.114g to correct reference.

b. Revised 142.21 to provide for a service charge of $5 to be levied against USPS customers whose checks are returned by the bank as uncollectible.

c. Revised 142.3 and .4 to change procedures for replenishment of stamp stock by window clerks and rural and star route carriers.

d. Amended 144.46 and 144.92f to permit customer ZIP codes on customer's meter stamps.

e. Amended 145.2 to clarify the content and format requirements for permit imprints.

f. Amended 146.12 to reference 146.41 to assure that special care is exercised in determining whether mail is in fact unpaid.

g. Amended 146.543 to adopt new forms 3849-A and 3849-B for use in connection with revised procedures for handling mail which requires delivery notices or delivery receipts.

h. Revised and reorganized 147.2 to separate refund procedures for postage from refund procedures for retail services.

.5 Subchapter 150.

a. Amended 154.63, 154.91, 156.33, 158.122, 159.272, and 159.721c to adopt new forms 3849-A and 3849-B for use in connection with revised procedures for handling mail which requires delivery notices or delivery receipts.

b. Renumbered 155.42 as 155.43. Added new section 155.42 which prohibits city carriers from accepting keys for locks placed on customer's private mail receptacles.

c. Amended 158.2 and 159.2 to update from titles or correct typographical errors.

d. Revised 159.41m, 159.42a, and 159.42d to correct account numbers.

e. Amended 159.724b(2) to provide for all dead letters from post offices in Texas to be processed by the dead letter branch at Dallas, TX 75221.

f. Amended 159.724c(2) to change the address to which dead parcels from post offices in the Los Angeles Bulk Mail Center service area should be sent.

g. Amended 159.78 to show the source of supply for forms 4911 and 4913.

.6 Subchapter 160.

a. Revised 161.52 to reflect storage requirements for rotary registry locks.

b. Amended 161.41, 161.761, 161.763, 161.764, 161.911b(4), 162.62, 162.72a, 163.511, 163.84, 164.54a, 165.242b, 165.341b, 165.343, 166.42, 166.43, 166.44, 168.55, 168.56, 168.61a, 168.65, and 169.825 to adopt new forms 3829-A and 3849-B for use in connection with revised procedures for handling mail which requires delivery notices or delivery receipts.

c. Amended 161.9, 162.6, 162.7, 163.7, and 168.6 to update form titles or correct typographical errors.

.7 Subchapter 170.

a. Revised 171.217 to delete Bermuda and Jamaica from list of countries where money order service is available on a domestic basis.

b. Revised 172.3 to show that over-the-counter sale of U.S. Savings Bonds has been discontinued.

In consideration of the foregoing 39 CFR 111.3 is amended as follows:

§ 111.3 Amendments to Chapter I of the Postal Service Manual.

* * * * *

Transmittal letter	Issue	Date	"Federal Register" publication
43	119	Feb. 20, 1978.	43 FR .

ROGER P. CRAIG,
Deputy General Counsel.

(5 U.S.C. 552(a), 39 U.S.C. 401)

Accordingly, the amendments made by Transmittal Letter 43, Issue 119, are hereby published and read as follows:

PART 113

SERVICE IN POST OFFICES

* * * * *

113.2 Hours of business.

.21 Non-holiday weekdays.

* * * * *

.214 Windows and services should be consolidated so that each window clerk is fully utilized during his tour of duty. Windows offering specialized service may be opened only where special conditions warrant and if approved by management sectional center managers or their designees. All such approved specialized windows will also have stamps and stamped paper, as a minimum, available for sale.

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PART 121

PACKAGING

121.1 Packaging adequacy.

Articles accepted for mailing shall be prepared according to the general criteria and regulations specified herein. The Postal Service will accept properly packaged and marked parcels and reserves the right to refuse nonmailable or improperly packaged articles or substances. Other regulations, concerning packaging and mailability, are contained in part 124 for articles mailable under special rules, part 126 for overseas military post offices and Publication 42 for international mail.

121.2 Definitions.

.21 Types of loads.

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b. *An average load.* Moderately concentrated items, which are packed directly into a shipping container or which may be subjected to an intermediate stage of packing, and which provide partial support to all surfaces of the container. Average loads may be prepackaged by nesting items within partitions or in separate paperboard boxes. This tends to stabilize items to prevent shifting and damage to them and the container.

c. *A difficult load.* Items which require a high degree of protection to prevent puncture, shock or distortion either to themselves or the package. Fragile items, delicate instruments, high density, small bulk items, etc., which do not support the mailing container are not acceptable in paperboard boxes or bags or wraps of any type.

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121.3 Packaging for mailing.

.31 Preservation.

It is the responsibility of the mailer to provide protection against deterioration or degradation of the contents. Preshipment testing is practiced by the airline carriers and by many company managers to determine the effectiveness of their packaging as well as the durability and the quality of their product. The mailer should be aware of the characteristics of the item he is mailing, the transit time, and the mail handling and transportation environment. The National Safe Transit Association Test Procedure Project 1A is recommended for customer's evaluation of their packages. Postmasters and customer services representatives will keep customers advised on service and transit times.

.32 Containers acceptable for mailing.

.321 Boxes.

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c. Unless otherwise specified, see 121.5 and 126.12, solid and corrugated fiberboard boxes are acceptable for easy and average loads up to the following weight limits:

(1) 125 pound test board up to 20 pounds.

(2) 175 pound test board up to 40 pounds.

(3) 200 pound test board up to 65 pounds.

(4) 275 pound test board up to 70 pounds.

d. Unless otherwise specified, see 121.5 and 126.12, solid and corrugated fiberboard boxes are acceptable for difficult loads up to the following weight limits:

(1) 175 pound test board up to 20 pounds.

(2) 200 pound test board up to 45 pounds.

(3) 275 pound test board up to 70 pounds.

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g. Good, rigid used boxes with all flaps intact are acceptable. If a box of the desired size cannot be found, a larger one may be cut down as shown in illustration 1. Bend the four sides over the articles which have been cushioned in the box and close and band as in illustration 5. Illustration 2 shows a method of making an acceptable container by using two boxes of the same general dimensions from which the flaps have been removed.

.322 Outside wraps for boxes.

It is preferable that paper wrappers be omitted if the box itself constitutes an adequate shipping container. However, wrapping paper equivalent to a regular large grocery bag, 60 pound basis weight, may be used as an outside cover for boxes. Closure and reinforcement will be accomplished by the use of tape, see 121.34.

.323 Bags, bales, bundles and wraps.

Bags, bales, bundles and wraps shall not be accepted with difficult loads. The contents in bags, bales, bundles and wraps will be compressed whenever possible:

a. Paper bags and wraps are acceptable for easy loads of up to 5 pounds when they are at least 50 pounds basis weight, the strength of the average large grocery bag, and the items are immune from impact or pressure damage. A combination of plies adding up to or exceeding 50 pounds basis weight is not acceptable. Reinforced bag or bags with a minimum of 70 pounds basis weight are acceptable for easy and average loads of up to 20 pounds. Non-reinforced loose-fill padded bags are not acceptable as exterior containers, except when the exterior ply is at least 60 pounds basis weight.

b. Plastic bags shall, as a minimum, be at least 2 mil thick polyethylene or equivalent for easy loads up to 5 pounds and 4 mil for easy loads up to 10 pounds. Experience indicates that plastic bags, which will stretch and resist puncturing, are more durable than most nonreinforced paper bags and provide a high degree of waterproofness. However, the ordinary plastic bag without the above strength characteristics is to be avoided.

c. Cloth bags are acceptable for easy and average loads of up to 10 pounds provided their seams are equivalent in strength to the basic material.

ILLUSTRATION 1

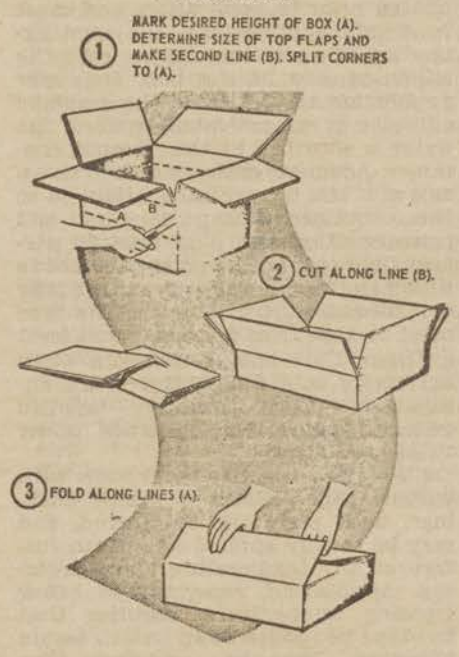
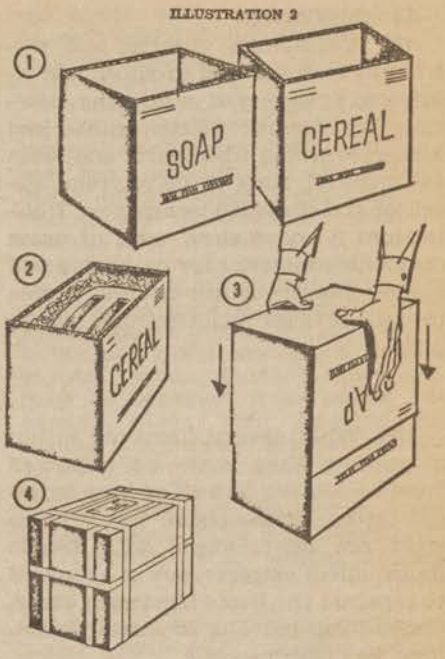


ILLUSTRATION 2



The usual point of fracture is at the taped corners.

d. Bales and bundles are acceptable within postal weight limits provided they are adequately compressed and reinforced to contain the material.

.324 Envelopes.

Envelopes may be used as containers for articles when the package can reasonably be expected to be processed and delivered without damage to the contents or other mail:

a. *Letter-style envelopes.* Letter-style envelopes, for this part of the Postal Service Manual, are those nongusseted, flat envelopes from 3" × 4¼ up to 6⅛" × 11½". Envelopes of this type are acceptable as containers for nonrigid stationery and material of a similar nature, up to 1 pound in weight and 1" in thickness (see 124.85).

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.325 Fiberboard tubes and similar long packages.

Fiberboard tubes and similar long packages are acceptable providing their length does not exceed 10 times their girth. As a minimum, the strength of the tube ends must be equal to the tube sidewall strength, except when the contents are lightweight rolled items. In any event, sidewall strength will be equal to solid fiberboard $\frac{1}{16}$ inch thick for tubes under 18 inches long, $\frac{3}{32}$ inch thick for tubes 18 to 32 inches long, and $\frac{5}{32}$ inches thick for tubes over 32 inches long. Crimped or taped end closures are not acceptable for other than lightweight, rolled items. Tape must completely encircle the seams on friction slide closures of mailing tubes.

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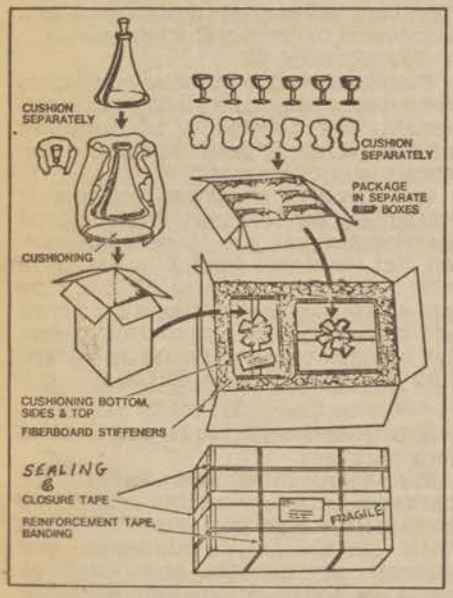
.33 Cushioning.

.331 Cushioning absorbs and distributes forces caused by shock and vibration. Examples of cushioning materials are foamed plastic, rubberized hair, corrugated fiberboard, and loose fill material, such as polystyrene, excelsior and shredded newspapers. Illustrations 3 and 4 show ways of using cushioning material for packaging odd shaped items, picture frames, fragile ceramic articles and electronic equipment.

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.333 When several items are within a package they must be protected from each other as well as from external forces. Concentrated heavy items must not be packaged with fragile items unless extreme care is exercised to separate the items from each other. Heavy items must be adequately stabilized. See Illustration 3.

ILLUSTRATION 3

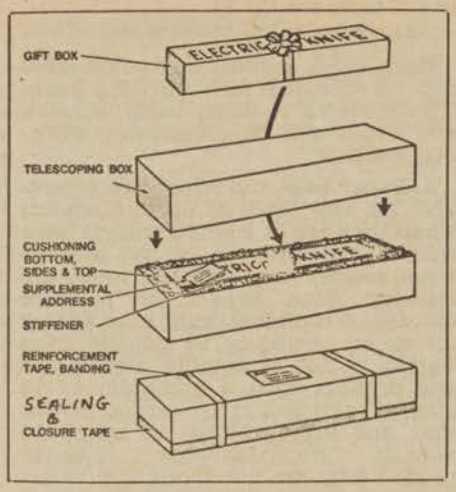


.34 Closure, sealing and reinforcement.

.341 General.

Closure and reinforcement of packages are primary considerations in the preparation and acceptability of any parcel. The principal methods of closure and reinforcement employ gummed and pressure sensitive tapes, adhesives, strapping, staples and boxes and bags; and various friction closures, screw caps and locking devices for cans and similar containers.

ILLUSTRATION 4



.342 Tape.

a. Tape is used for closure, sealing and reinforcement of containers. Cellophane and masking tape shall not be used for closure or reinforement of packages, but may be used to augment adhesive closures on envelopes or to cover staples on bags. Pressure sensitive, filament reinforced tape is recommended for closure and reinforcement.

b. Paper tape must be at least 60 pounds basis weight kraft. This tape is widely used for closure and sealing, but is not adequate for reinforcement. Reinforced kraft paper tape is considerably more durable than plain kraft tape, and takes less time and tape for an equal closure. The adhesives on gummed tapes must be adequately activated prior to application, and must be firmly applied with the tape extending at least three inches over the adjoining side of the box. Improper application results when the gummed adhesive is not activated or when the water is absorbed by the fiberous container. Adequate activation shall be assumed if the tape remains attached to the container during handling and transportation and if at least 50 percent fiber tear occurs on the surface to which the tape is applied or if the tape delaminates during removal. The tape must be kept from freezing for at least an hour. Care should be taken when extremely cold temperatures are anticipated. Even properly applied gummed tapes tend to crack under these conditions.

c. Pressure sensitive tapes come with various paper, cloth or plastic backings, both plain and reinforced, and may be readily applied on a clean surface at any temperature above freezing. Application, especially in below freezing temperature, requires that the tape be rubbed down well to assure adhesion. Pressure sensitive tape should be used on the container in the same way as gummed tapes.

d. Illustration 5 shows proper methods of applying reinforced paper tapes and reinforced pressure sensitive tapes. Tapes can also be used to close other types of packages not illustrated, including those of irregular shapes and soft wrapped items. Packages properly closed with reinforced tape are substantially stronger than are parcels closed with nonreinforced paper tape. Except for pressure sensitive filament tape, tapes used for closure and reinforcement shall not be less than 2 inches wide. Nonreinforced plastic tapes shall be at least as strong in the cross direction as in the machine (long) direction.

.343 Adhesive.

Adhesive is a general term covering cement, glue, mucilage, paste, cold emulsion, thermal plastic, etc. Adhesive used for closure shall be assumed to have been adequate if at least 50 percent fiber-tear occurs on the surface to which the adhesive was applied. Adhesives used for closure on box flaps or on tapes must remain serviceable in temperatures from minus 20 degrees Fahrenheit to plus 160 degrees Fahrenheit. It is recommended that an adhesive cover at least 50 percent of the box flaps and be applied not more than ¼ inch from the ends of the box flaps. Alternatively, four strips of hot melt adhesive may be used on each portion of the box flap where the outer flap overlays the inner flap. Each strip will be 3/16-inch wide after compression. Strips should be a maximum 1½ inches apart, with the first strip no more than ½ inch from the center seam. All strips will be the full width of the inner flap, or hot melt adhesive should be applied to 25 percent of the area where the outer flap overlays the inner flap.

.344 Banding.

When banding is used for closure and reinforcement, it should encircle the package at least once girthwise and lengthwise over the sides, ends and tops of rectangular containers and bundles. Although it is preferred than twine and cord not be used for closure and reinforcement, if used, they should be at least 20 pounds tensile strength and must be secured at an intersection at least once on each side. Strapping includes both metallic and nonmetallic banding and pressure sensitive filament tape. Loose strapping, especially metal, is not acceptable because it constitutes a hazard to employees and equipment and does not reinforce the container. It is preferred that flat steel strapping have smooth or plastic coated edges.

.345 Staples and steel stitching.

a. Staples and steel stitching are acceptable providing they are spaced not more than 5 inches apart for easy and average loads and 2½ inches apart for difficult loads and not more than 1¼ inches from the ends of the box. Boxes that do not meet these require-

ments may be made acceptable by application of a strip of three-inch-wide reinforced, tape in the gap between the staples or by strapping to compensate for the gap in the staple elosure. Illustration 6 shows banding augmented staple closures.

b. Staples and steel stitching are acceptable on envelopes and bags providing they do not present a hazard to postal employees, equipment or other mail. Mailing pieces with improperly clinched or unprotected protruding ends of staples or stitches are not acceptable.

ILLUSTRATION 5

ADEQUATE CLOSURE



PRESSURE SENSITIVE FILAMENT TAPE

This tape is composed of filaments imbedded in pressure sensitive adhesive. It is extremely strong and only short "I," or "L" shaped strips are needed to accomplish effective closure. However, closure and reinforcement may be accomplished by complete banding as illustrated. It is important to tape down the ends of the flaps (√).



REINFORCED KRAFT PAPER TAPE

This tape is about 3 inches wide and is composed of several laminated layers with filaments running both lengthwise and across. It is extremely break resistant and has excellent adhesive qualities. Reinforced tape is preferred over the plain kraft tape. Equivalent plastic tapes may be used in the same manner.

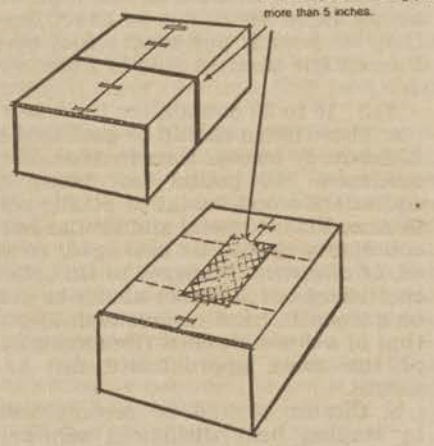


KRAFT PAPER TAPE

This is a one-thickness tape available in many widths and strengths. It must be correctly applied, both as to positioning and adhesion, and must be graded in use according to the size, shape, and weight of the package. It is not adequate for heavy packages. Of particular importance is the absolute necessity for fully taping down the ends of the package flaps, (√).

Note: Bursting of corners, especially taped joints, may be a problem for containers under heavy impact.

ILLUSTRATION 6



121.4 Marking.

.41 General.

a. Marking by the mailer must be by a material which is not readily water soluble nor which can easily be rubbed off or smeared and will be sharp and clear at a distance of 30 inches. It is recommended that the name and address of the sender and addressee also be inserted within the package to aid in delivery if the address on the package is defaced.

b. Restricted articles shall be marked and labeled in accordance with 124.15.

.42 Special markings.

Special markings as identified shall be placed in an area below the postage and above the name of the addressee:

a. Fragile markings shall only be applied to any package containing delicate items such as glass and electrical appliances. Identification of contents is not required.

b. Perishable markings shall be applied to any package which will degrade or decompose rapidly such as meat, produce, plants, or certain chemical samples.

c. Handling markings, such as DO NOT BEND shall be used only when contents are protected with stiffeners.

d. Words implying expedited handling, such as RUSH DO NOT DELAY, shall not be used on any package except those intended for shipment as special delivery or special handling mail.

e. Unauthorized markings which do not designate the address, nature of contents, or handling are not permitted. Obsolete markings will be obliterated. Containers improperly identified as to contents are not acceptable; e.g., a box marked as containing art supplies which contains flammable liquid. Extraneous information, such as order numbers, which will be confused with ZIP codes, are not permitted adjacent to or immediately under the last line of the address.

.43 Marking surfaces.

Marking methods or surfaces shall be of such type as to permit postal endorsements to be made by hand stamp, ball point pen, or No. 2 grade pencil. Package surfaces which will not retain an adhesive stamp, postage meter impression, ball point pen or pencil markings are not acceptable. Address labels and particularly envelopes will be firmly sealed to containers with no more than ⅛ inch separation between ends of the envelope and containers. Mailings with labels and envelopes which do not adhere to the ⅛ inch requirement will be rejected if they cause problems in processing.

121.5 Mailability.

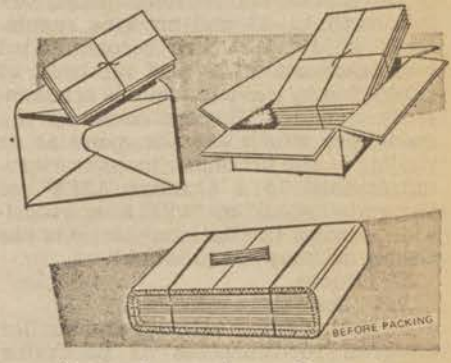
.51 Acceptability.

Acceptability of packaging is a principal criteria of mailability. No item shall be packaged so that its contents may harm personnel or equipment or other mail. Fragile items must be packaged to withstand the mail processing and transportation environment. Heavy items must be braced and cushioned to prevent damage to other mail. Some general classes of items which cause a continuing problem due to packaging deficiencies are described in this section. Further information may be obtained from parcel post window clerks, dock foremen, and mailing requirements personnel. Requests for exceptions to the prohibitions set forth herein shall be submitted for a ruling to the Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260.

.52 Stationery.

Stationery-type items constitute a major source of loose-in-the-mail items. Problems occur because of unrestrained, concentrated or shifting contents, and the use of containers, internal packaging, closures and reinforcements which are inadequate. Stationery-type items exceeding one inch in depth or one pound in weight should not be accepted in letter-style envelopes. The contents of these packages must be unitized by tying or banding or through the use of partitions on close fitting interior containers to prevent shifting. Illustration 7 gives several examples of unitizing this type material.

ILLUSTRATION 7



121.6 Packaging improvement report.

a. When packaging deficiencies are noted after acceptance that are not of such a serious nature as to require refusal for dispatch or removal from the mails, the receiving Postal employee will complete a Packaging Improvement Notice, form 3823, noting the potential source of loss or damage in accordance with 331.22. When damage occurs as a result of inadequate packaging, form 3823 will be prepared in accordance with 334.723.

b. Packaging which does not meet the minimum requirements of this Part may be allowed in a "test" status. If the test packaging achieves acceptable performance levels, the mailer may continue to use the packaging. Authority to grant "test" status to mailers may be considered by the originating BMC general manager. This decision is subject to an appeal to the Office of Mail Classification, Rates and Classification Department. Requests for interpretations of Postal Service regulations which cannot be resolved by the accepting postmaster, BMC manager, or customer requirements officer will be referred to the Postal Services Centers. When significant deviations from existing requirements are successful, the Office of Mail Classification will be notified. Test status is also available for any of the provisions under 121.7.

121.7 Guidelines.

.71 General.

The following guidelines apply to all pieces of any class of mail which will be individually processed in the Bulk Mail System. These recommended packaging materials and methods of packaging in these guidelines that are identical with mandatory requirements in 121.32–34 and 121.4 are mandatory. Particular attention is directed to the closure and reinforcement regulations in 121.34 and marking regulations in 121.4. Other recommended packaging materials and methods of packaging in these guidelines are presently optional. Those sections of the guidelines which are the same as or similar to the preceding mandatory requirements, 121.1 through 121.5 use the verbs "shall" or "will" as appropriate, whereas the optional sections use the verbs "may" or "should."

.72 Books.

.721 Scope.

Books including catalogs and similar material for purposes of packaging only and not for purposes of mail classification are defined as any item having 24 pages or more, fastened together along one edge between either hardback, paperback or self covers. These guidelines are designed to assure safe handling of packages which, if the contents are unrestrained or allowed to shift, or if inadequate containers, internal packaging, closures and reinforcement are used, are subject to possible damage.

.722 Up to 5 pounds.

a. Books exceeding 1 inch in depth or 1 pound in weight will not be accepted in letter style envelopes, which are defined as those non-gusseted, flat envelopes from 3" x 4½" up to 6⅛" x 11½". Other envelopes, as defined in 121.324b, will be used.

b. Book shipments up to 5 pounds should be packaged in close fitting paperboard or fiberboard boxes or padded or reinforced bags (exterior ply minimum 60 pounds basis weight) or wraps (corrugated or minimum 60 pounds basis weight paper). The container should be no less than ¼" thick. The contents of paperboard containers should support the package and should not permit a lateral shift of the books of more than ½". A snug fitting container is recommended.

c. Closure should be accomplished by multiple friction closures, (e.g., the insertion of more than one flap or tab) completely clinched staples to avoid handling injuries, heat sealing, adhesives, tape or non-metallic banding. Although shrink wrap is not acceptable as the only packaging for hardback books exceeding 1 pound or 1 inch in depth, it may be used on the exterior of otherwise acceptable containers. Shrink wrap may be used as the only method of packaging for paperback books up to three pounds. Shrink wrap material should have a coefficient of friction of 0.025 to 0.040 on metal surfaces at 20 to 25 degree elevations.

.723 From 5 to 10 pounds.

a. Books in this weight range should be packaged in fiberboard boxes with a minimum of 175 pound test board or equivalent.

b. Closures will be accomplished by the use of tape or nonmetallic banding or adhesives. The use of reinforced tape or nonmetallic banding is adequate for both closure and reinforcement. Nonmetallic banding must be firmly applied to the point that the straps must be tightened until they depress the carton at the edges in order to meet the requirements of this section.

.724 From 10 to 25 pounds.

a. Books in this weight range should be packaged in fiberboard boxes with a minimum of 200 pound test board or equivalent.

b. Closure should be as above in 121.723b for the 5 to 10 pound range, except that the container should be reinforced or banded in the direction which will provide the greatest support with reinforced paper tape, equivalent plastic tape, pressure sensitive filament tape, or firmly applied nonmetallic banding. The use of reinforced tape or nonmetallic banding is adequate for closure and reinforcement of these containers. Nonmetallic banding must be firmly applied to the point that the straps must be tightened until they depress the carton at the edges in order to meet the requirements of this section.

.725 From 25 to 50 pounds.

a. Books in this weight range should be packaged and closed as above in 121.724b for the 10 to 25 pound range, except that hardbound books will be packaged in 275 pound test fiberboard and paperbacks will be packaged in 200 pound test containers.

b. Outer containers of books should be reinforced at two points to provide the greatest support with reinforced paper or plastic tape, pressure sensitive filament tape, or firmly applied nonmetallic banding.

.726 From 50 to 70 pounds.

Hardbound books in this weight range should be packaged as above 121.725 for the 25 to 50 pound range, except that they should be packed in fiberboard boxes with a minimum 350 pound test board or equivalent. Paperback books will be packaged in 275 pound test fiberboard boxes.

.727 Cushioning.

Void spaces within multiple book containers will be filled with dunnage or otherwise stabilized to prevent shifting or damage to the contents or container.

.73 High density items.

.731 Scope.

High density items are defined as packages of solid objects which exceed 15 pounds per cubic foot, such as hardware, machine and auto parts, tools and similar metal or heavy items, except books. These requirements are designed to assure safe handling of packages which, if the contents are unrestrained, or if allowed to shift, or if inadequate containers, internal packaging, closures and reinforcements are used, are subject to significant damage. Articles of this type will be packaged so as not to exert more than 60 pounds per square foot pressure on the smallest side of a container.

.732 15 to 20 pounds.

a. These items should be packaged in fiberboard boxes constructed of a minimum 200 pound test board or equivalent wood, metal or plastic containers. Plastic, metal and similar hard containers should be packaged, treated, or otherwise prepared so that their coefficient of friction or ability to slide on a smooth, hard surface is similar to that of a domestic class fiberboard box of the same approximate size and weight.

b. Closure should be accomplished by staples, heat shrinking, adhesives or tape.

c. Boxes without inner packing or containing loose material should be reinforced or banded with reinforced paper or plastic tape, pressure sensitive filament tape or firmly applied nonmetallic banding.

d. Internal blocking and bracing, including the use of interior containers,

cut forms, partitions, dunnage, and liners, should be used as required so that packages will be capable of maintaining their integrity without damage to the contents if dropped once on one of their smallest sides on a solid surface from a height of 3 feet.

.733 From 20 to 45 pounds.

These items will be packaged, closed and reinforced as above in 121.732 except that reinforcement should be by the use of pressure sensitive filament tape or nonmetallic banding.

.734 From 45 to 70 pounds.

These items will be packaged, closed and reinforced as above in 121.733 except that exterior containers will be a minimum of 275 pound test fiberboard or equivalent.

.74 Softgoods.

.741 Scope.

Softgoods are defined as any textile material, normally associated with wearing apparel, sheets, blankets, pillows and pillow cases, draperies, cloth, dry goods, hats and fabrics, etc. These guidelines are designed to assure safe handling of packages which, if the containers are inadequately closed or cannot withstand puncture, friction, or compression during normal handling operations, are subject to significant damage.

.742 Up to 5 pounds.

a. Softgoods in quantities up to 5 pounds should be packaged in cloth bags or paper bags or wraps (outer ply minimum 50 pounds basis weight), plastic bags (minimum 2 mil thick polyethylene or equivalent strength), paperboard or fiberboard boxes. Boxes must be filled to capacity.

b. Paper bags, plastic bags or wraps should be closed or vented in a manner to permit rapid compression of the pack.

c. Closure of bags may be by completely clinched staples, heat sealing, adhesives, sewing or tape. Improperly clinched staples will be removed to prevent injury to handling personnel and other mail.

d. Closure of boxes may be by staples, adhesives, tape, heat shrinking, or nonmetallic banding. Paper tape should be applied along all box flaps and closure seams. Equivalent strength plastic tape is also acceptable. Although shrink wrapping is not acceptable as the only means of packaging, it may be used on the exterior of otherwise acceptable boxes.

e. When the density of softgoods is less than 4 pounds per cubic foot in boxes, they should be reinforced in at least two of the longest directions.

.743 From 5 to 10 pounds.

a. Softgoods in this weight range should be packaged in cloth bags, paper bags or wraps (outer ply minimum 70 pounds basis weight) filament reinforced paper bags, plastic bags (minimum 4 mil thick polyethylene or equivalent strength), or fiberboard boxes.

b. The methods of closure of these containers should be as specified in 121.742c and 121.742d. Reinforced tape is adequate for both closure and reinforcement.

.744 From 10 to 20 pounds.

a. Softgoods in this weight range should be packaged in paper bags or wraps (minimum 70 pounds basis weight paper), reinforced paper bags or cloth bags or fiberboard boxes with a minimum 175 pounds test board or equivalent.

b. Closure of boxes may be by staples, adhesives, reinforced paper tape or equivalent plastic tape, except that the container should be reinforced or banded by the method which will provide the greatest support with pressure sensitive filament tape, or firmly applied nonmetallic banding. The use of reinforced tape is adequate for closure and reinforcement of these containers.

.745 From 20 to 45 pounds.

a. Softgoods in this weight range should be packaged as specified for the 10 to 20 pound weight range in 121.744a except that fiberboard containers will be a minimum of 200 pound test board.

b. Closure should be as specified in 121.744b. Containers should be reinforced at two points to provide the greatest support with reinforced paper or plastic tape, pressure sensitive filament tape, or firmly applied nonmetallic banding.

.746 From 45 to 70 pounds.

Softgoods in this weight range should be packaged, closed and reinforced as specified for the 20 to 45 pound range, except that fiberboard containers will be a minimum of 275 pound test board.

.75 Sound recordings.

.751 Scope.

Sound recordings are defined for purposes of packaging only and not for purposes of mail classification as plastic, nonbreakable disc type records, normally 33⅓,45, or 78 RPM, as well as magnetic tapes, normally used in home and auto sound reproducing equipment. These guidelines are designed to assure safe handling and reduce breakage and loss of destination markings.

.752 Records up to 10 pounds.

a. Records in paper sleeves, paperboard or chipboard shells will be packed in 70 pound basis weight envelopes for weights up to 3 pounds, or outer corrugated, fiberboard containers for weights up to 10 pounds. The containers should be no less than ¼" thick.

b. Closure should be accomplished by the use of adhesives, kraft paper tape, equivalent plastic tape, or staples.

.753 Records from 10 to 20 pounds.

Multiple shell containers should be closed as above in 121.752b except that the outer container should be reinforced in at least one direction with reinforced paper or plastic tape, pressure sensitive filament tape, or firmly applied nonmetallic banding. The use of reinforced tape is adequate for closure and reinforcement of the outer container.

.754 Records from 20 to 40 pounds.

Multiple shell containers will be packaged in 175 pound test fiberboard containers or equivalent and closed and reinforced as in 121.752b except that the containers should be reinforced at two points with pressure sensitive filament or nonmetallic banding to provide the greatest support.

.755 Records from 40 to 70 pounds.

Multiple shell containers up to 65 pounds will be packaged in 200 pound test fiberboard containers or equivalent and closed and reinforced as above in 121.754, except that containers will be reinforced approximately every 8 inches around the package. Containers over 65 pounds will be 275 pound test fiberboard or equivalent.

.76 Acceptability of magnetic tapes.

.761 Scope.

Tape cassettes and cartridges are a problem because of inadequate containers for small quantities and failure to provide internal and external reinforcement of large quantities of tapes in a single parcel.

.762 Tapes up to 5 pounds.

a. Individual tapes may be packaged in plastic film wrap (minimum 0.00075 mil), cushioned bags or cushioned and packaged in paper bags with a minimum basis weight of 60 pounds. Multiple tapes will be packed in outer fiberboard containers or chipboard containers (minimum 0.022 mil).

b. Closure will be accomplished by multiple friction closures (e.g., the insertion of more than one flap or tab), completely clinched staples, heat shrinking, or adhesives, or by tape. Paper tape must be a minimum of 60 pounds basis weight kraft. Shrink wrapping is acceptable on the exterior of otherwise acceptable boxes of multiple tape shipments.

.763 Tapes from 5 to 10 pounds

In addition to the guidelines in 121.762, closure will be accomplished only by the use of adhesives, tape or staples.

.764 Tapes from 10 to 20 pounds.

Packaging and closure will be as above in 121.763 for the 5 to 10 pound range, except that the container should be reinforced or banded in a direction which will provide the greatest support with reinforced paper or plastic tape, pressure sensitive filament tape, or firmly applied nonmetallic banding. The use of reinforced tape is adequate for closure and reinforcement of these containers.

.765 Tapes from 20 to 40 pounds.

Tapes in this weight range will be packaged in fiberboard boxes of 175

pound test. Closure will be as above in 121.764 for the 10 to 20 pound range, except that the container will be banded or reinforced at two points with reinforced paper or plastic tape, pressure sensitive filament tape, or firmly applied nonmetallic banding, to provide the greatest support.

.766 Tapes from 40 to 65 pounds.

Tapes in this weight range up to 65 pounds will be packaged, closed and reinforced as above in 121.765 for the 20 to 40 pound range, except that fiberboard containers of at least 200 pound test board or equivalent will be used. Containers over 65 pounds will be 275 pound test fiberboard or equivalent.

PART 122

ADDRESSES

* * * * *

122.5 Mailing list services.

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.53 Address cards arranged in sequence of carrier delivery.

.531 Arrange address cards in sequence of carrier route delivery without charge. Each card must include only one address. Mailers may submit address plates or stencils instead of cards when satisfactory arrangements can be made to handle them.

.532 Withdraw cards with nonexistent or other undeliverable addresses. Insert a card showing the correct address for each existing address that is not included in the owner's address cards, plates, or stencils and correct cards with incorrect addresses if the owner meets the following requirements:

a. Separate mailing lists must be submitted for each five-digit ZIP code area.

b. A mailing statement must be submitted by the owner showing:

(1) Whether the list is a residence only list, a business only list, or a combination list;

(2) The number of addresses contained in the list; and

(3) The list owner's or designated agent's name, address, and phone number.

c. The mailing list must contain:

(1) 90 percent of all residential addresses within the five-digit ZIP code area if the list is a residence only list, or

(2) 90 percent of all business addresses within the five-digit ZIP code area if the list is a business only list, or

(3) 90 percent of all addresses within the five-digit ZIP code area if the list is a combination list.

.533 In calculating the total number of addresses within a five-digit ZIP code area, apartment units or office buildings with a series of addresses will be treated as one address.

.534 Withdraw cards with incorrect addresses and insert a blank card for each existing address that is not included in the owner's address cards, plates, stencils if the owner does not meet the requirements specified above. If several addresses are missing in a series, insert a single blank card for the series and indicate on the card the number of addresses which are missing.

.535 For each correction (deletion or addition of an address), the charge is 10 cents. For apartment or office buildings with a series of addresses, for which the range of the addresses is given on one card, the charge will be 10 cents for the card.

.536 Local managers must check to see that customers whose lists have been arranged in sequence of carrier delivery ensure that bundles are prepared for each route with the individual pieces in delivery address sequence. This service shall not be provided to customers who do not ensure the required premailing preparation is made.

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122.7 Second-class and controlled circulation publications.

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PART 123

NONMAILABLE MATTER—WRITTEN, PRINTED AND GRAPHIC MATTER

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123.4 Nonmailable written, printed or graphic matter generally.

.41 Solicitations in the guise of bills, invoices or statements of account (39 U.S.C. 3001(d)).

Any otherwise mailable matter which reasonably could be considered a bill, invoice, or statement of account due, but is in fact a solicitation for an order, is nonmailable unless it conforms to .41a or b, below:

a. The solicitation shall bear on its face the disclaimer prescribed by 39 U.S.C. 3001(d)(2)(A) in boldface capital letters of a color prominently contrasting with the background against which it appears, including all other print on the face of the solicitation, and at least as large and as bold as any other print on the face of the solicitation, but not smaller than 30-point type; or

b. The solicitation shall bear on its face the notice: THIS IS NOT A BILL, in capital letters of a color prominently contrasting with the background against which it appears, including all other print on the face of the solicitation, and at least as large and as bold as any other print on the face of the solicitation, but not smaller than 30-point type. The notice shall be located in accordance with one of the following options:

(1) On the center of the diagonal described by a straight line drawn from the vertex of the lower left corner to the vertex of the upper right corner; or

(2) Overprinting each portion of the solicitation which reasonably could be considered to specify a monetary amount due and payable by the recipient.

In addition, the solicitation shall bear on its face the disclaimer: THIS IS A SOLICITATION. YOU ARE UNDER NO OBLIGATION TO PAY UNLESS YOU ACCEPT THIS OFFER. The disclaimer shall be surrounded by clear space of at least one-quarter inch; it shall appear in capital letters no smaller than 18-point type and of the same color as the notice required by the first sentence of this subsection; and it shall not, by folding or any other device, be rendered less prominent than any other information on the face of the solicitation.

c. The disclaimer required by .41a or the notice and disclaimer required by .41b shall not be preceded or followed by words or symbols which introduce, modify, qualify, or explain the prescribed text, such as "Legal notice required by law."

d. Any solicitation which states that it has been approved by the Postal Service or by the Postmaster General or that it conforms to any postal law or regulation is nonmailable.

* * * * *

.44 Other prohibited matter.

The following are nonmailable:

* * * * *

b. *Copyright violations (17 U.S.C. 601-603).* Mail of foreign origin containing matter determined by a court of competent jurisdiction to violate the copyright laws of the United States, or any copyright convention or treaty to which the United States is a party.

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PART 125

SECOND-CLASS BULK MAILINGS

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.32 Preparation by the mailer of copies in packages and sacks.

.321 Package labels.

Pressure sensitive labels are made available to mailers through local customer services representatives and postmasters and must be used to indicate the makeup and destination of all packages that require a package label. All pieces in a package must be faced in one way and the top piece must be plainly addressed, including the ZIP code.

a. *Use of package labels.*

(1) *Five-digit package.* Place six or more pieces for the same ZIP code area in a bundle. Use of a package label is optional. When such packages are labeled, affix Red Label D.

* * * * *

b. *Package labels—general.*

Pressure sensitive package labels shall be applied to the lower left corner of the address side of the top piece on letter size packages and next to the address on larger packages. Facing slips shall be placed on the face of mixed states and foreign packages. While the preparation of split state bundles is optional, when such bundles are prepared, they must also be labeled with facing slips. Pressure sensitive labels and facing slips are available at post offices.

* * * * *

.53 Statement showing number of copies mailed.

When postage is to be computed on the bulk weight of one issue as provided for by 125.61, the publisher must file with the first mailing of each issue a statement on form 3541, Statement of Mailing-Second-Class Publications, showing the number of copies included in each zone or other separation necessary for computing the postage, and the average weight per copy as determined in the manner prescribed by 125.62. When postage is to be computed at the end of each calendar month on the total bulk weight of all issues mailed during the month as provided for by 125.63, the statement must be filed not later than 72 hours after the first mailing of the last issue mailed each month and must show the average number of copies of each issue included in each separation, the weight of one sheet, and the combined weight of one copy from each issue as determined in the manner prescribed by 125.64. The publisher must determine the average number of copies by dividing the total number of copies mailed during the month by the total number of issues mailed. On form 3541 enter only the month and year in the space provided for the date of mailing. Enter the first and last dates of the month in the space provided for the date of issue.

* * * * *

.56 Payment of advertising rates on reading portions.

A publisher may, if he so desires, pay postage at the advertising zone rates on both the advertising and nonadvertising portions instead of marking a copy of each issue to show the advertising and nonadvertising portions. See exhibit 125.743A (p. 3). When the advertising exceeds 75 percent, the copies filed must have endorsed on the first page by the publisher the words Advertising over 75 percent. When the advertising does not exceed 75 percent, the copies must have endorsed on the first page by the publisher the words Advertising not over 75 percent. The entire weight must be entered on form 3541 in the column provided for the advertising portion. The words Over 75 percent or Not over 75 percent according to whether the copies do or do not contain over 75 percent advertising must be entered in form 3541. The word Waived must be written in the space provided for the weight of the reading portion on form 3541. This option does not apply when the advertising rate is lower than the rate for nonadvertising.

* * * * *

125.6 Weighing and collection of postage.

.61 Procedure for determining bulk weight of one issue.

When postage is to be computed on the bulk weight of one issue (exhibit 125.743A (p. 1, 2, and 3)), the postmaster will obtain such weight by multiplying the total number of copies of the issue mailed by the average weight of one copy. The number of copies of a single issue mailed will be obtained from the statement on form 3541 required by 125.53. The average weight of one copy will also be obtained from the statement on form 3541 and must be determined by the publisher as prescribed in 125.62.

* * * * *

.63 How to determine bulk weight.

When publications are regularly printed on sheets of uniform weight, postmasters are not required to compute the postage on the bulk weight of each issue. Postage on such publications may be computed at the end of each calendar month on the total bulk weight of all issues mailed during the month. See exhibit 125.743B. The postmaster will obtain the total bulk weight by multiplying the average number of copies mailed by the combined weight of one copy from each issue. The average number of copies of each issue mailed during month will be obtained from the statement on form 3541 and must be determined by the publisher in the manner prescribed by 125.53. The combined weight of one copy from each issue will also be obtained from the statement on form 3541 and must be determined by the publisher in the manner prescribed by 125.64.

* * * * *

.65 Verification by postmasters of weights and number of copies.

The average weight per copy obtained by the publisher in the manner prescribed by 125.62 for use either in computing postage on the bulk weight of a single issue, or in determining the weight of one sheet as provided for by 125.64, must be verified by the postmaster by weighing, or by supervising the weighing of, a representative number of copies of the issue. If the average weight per copy is used for determining the weight of one sheet, the postmaster must also verify the computation by which the publisher determines the weight of one sheet. At the end of each calendar month, when postage is computed on the total bulk weight of all issues mailed during the month, the postmaster must verify the combined weight of one copy from each issue by counting the sheets in the copies filed under the provisions of 125.51 and multiplying the total by the previously verified weight of one sheet furnished by the publisher on form 3541, Statement of Mailing—Second Class Publications. If there is reason at any time to doubt the accuracy of the information reported on form 3541, sufficient weighings must be made to resolve the doubt. The postmaster will keep a record of the verification, preferably on the back of applicable form 3541.

.66 Examination of copies.

.661 An employee disignated by the installation head must examine a copy of each issue or edition to detect unauthorized enclosures and to determine whether the mailing qualifies as an issue of the publication. A log of the examination must be maintained showing the date of examination, the name of the publication, the date of the issue or edition examined, the signature of the examiner and any discrepancies found.

.662 Unless postage on a publication is computed at the end of each calendar month on the total bulk weight of all issues mailed during the month, an employee designated by the installation head must examine the mailing statement for the mailing to determine that is is completed properly. He must also confirm that the publication is authorized second-class mailing previleges at his post office and that sufficient funds are deposited to cover the postage.

.663 If postage for a publication is computed at the end of each calendar month on the total bulk weight of all issues mailed during the month, and employee designated by the installation head must maintain a monthly log showing the date of the issue being mailed, the date of mailing, the average weight per copy and the total weight of the copies in the mailing. This information must be reconciled monthly with the form 3541.

.664 When a mailing is ready for entry into the mainstream, a weighing clearance placard form 3608 or similar placard must be prepared by the ac-

cepting employee and the placard must accompany the mailing to the clearance point.

.67 Payment of postage at time of mailing or by advance deposits.

.671 Publishers must pay second-class postage in money before mailings are dispatched. Postage for commingled nonsubscribers' copies (132.131) and subscribers' copies may be computed on the same form 3541 when the publisher presents a separate form 3541 for each mailing. If postage is to be computed on a monthly basis for all issues mailed during the month, a separate form 3541 must be submitted for each mailing of commingled nonsubscribers' copies even though the nonsubscribers' copies were presorted with subscribers' copies. Postmasters will accept deposits of money to pay for as many mailings as desired and will give the publishers form 3544, Post Office Receipt for Money for the Deposits.

.672 The transient rate (132.132) for noncommingled nonsubscribers' copies may be paid only by adhesive or meter stamps or by permit imprints. See 145.32 and 145.51c.

.68 Record of mailings.

Postage on the bulk mailings will be computed on form 3541. The publisher will be furnished a duplicate of form 3541 if he requests one. When postage is computed on the bulk weight of one issue, the mailings and postage will be recorded in form 3543, Record of Second-Class Postage. When postage is computed at the end of each calendar month on the total weight of all issues mailed during the month, the total mailings and postage for the month will be computed on one form 3541, and only the totals will be recorded in form 3543.

.69 How to show dates of issue and mailing.

When a number of consecutive issues is covered by one form 3541, or by one entry in form 3543, the month and year will be shown on form 3541 and the dates of mailing must be indicated by entering the first and last dates in the appropriate spaces and columns.

125.7 Key rate.

.71 Authority to use.

Postmasters may use the key rate method of computing pound-rate postage on publications subject to the advertising zone rates when large mailings justify its use. See exhibit 125.743A.

.72 Statement showing mailings to each zone.

The publisher must submit once each calendar year, at 12-month intervals, a statement on form 3541 showing the number of subscribers' copies of an issue mailed to each zone. See exhibit 125.742. During these 12-month intervals, the publisher does not need to complete the lines for zones 1 to 8 on form 3541. He must enter only total zone mailings on Total pounds all zones lines.

.73 New zone statement.

Postmasters will require a new report on form 3541 showing the mailings to each zone at any time during the 12-month intervals when the volume of mailings to the zones varies or when there is an increase in the total number of copies.

* * * * *

125.8 Periodic verification.

.81 Publications authorized to contain general advertising.

.811 Postmasters of the office of original entry will periodically perform a verification of the data furnished on form 3541. As part of this verification, the postmaster will confirm that the publication meets the requirement of having a list of paid subscribers. Verifications will be accomplished by cycling over a period not to exceed 5 years as follows:

Publications entered	Cycling period (years)
1 to 100	1
101 to 200	2
201 to 300	3
301 to 400	4
401	5

.812 To perform this review, the postmaster will select one issue to be verified and obtain copies of all forms 3541 for the issue, including those from additional entry offices. The data contained on these forms will be reviewed with the publisher to confirm its accuracy. The review must include an inspection of the publisher's records such as the print order or invoice showing the total number of copies printed, individual and bulk orders for subscriptions, stubs of receipts issued, sales records and returns for over-the-counter sales, cashbook or similar records. The results of the last audit performed by the Audit Bureau of Circulation (ABC) or Business Publications Audit of Circulation, Inc. (BPA), should also be examined if the publication is a member of either organization. Some differences should be expected between the figures contained in reports of the audit bureaus and those on mailing statements because of minor differences in the bureaus' definitions of subscriptions, etc. However, these reports can be useful in pinpointing areas needing close investigations if there are gross differences in the volumes reported. Postmasters must determine that:

a. Copies reported as subscribers' copies, which must not include complementary or other nonsubscribers' copies, are in substantial agreement with the publisher's mail circulation records.

b. Nonsubscribers' copies which exceed the amount allowable as samples are mailed at the transient or commingled nonsubscriber rates.

c. During the previous 12-month period the total copies to paid subscribers and to purchasers of single copies constitute more than half of the total circulated. See 132.227 and 132.461b.

.813 Records of the verifications on form 3548, Postmaster and Publisher Joint Review and Verification on Circulation, must be retained, with the applicable forms 3541.

.82 Publications not authorized to contain general advertising.

.821 Once a year on an announced basis as determined by the postmaster at each office of mailing, all copies comprising one mailing of a publication not authorized to contain general advertising must be weighed to determine whether the total reported number of copies (outside county, in-county and foreign copies) on form 3541 is correct.

.822 The postmaster must keep a log arranged alphabetically by publication title or in numerical sequence by publication number (assigned by the Office of Mail Classification) showing the name of the publication, the date of verification, the issue verified and the name of the verifying employee. The back of the applicable form 3541 must be annotated to show the date of verification, the issue verified, the average weight per copy for the issue (see 125.62), the total number of copies and the total pounds. The verifying employee must sign the report. Work papers and other data sufficient to prove a proper and thorough verification was performed must be attached to the applicable form 3541. The results of the verification should agree with the average weight per copy for the issue and the total number of copies in the mailing as reported by the mailer on form 3541.

.823 If the verification discloses discrepancies regarding the average weight per copy or the total number of copies the Postmaster and the publisher must resolve the discrepancies before the mail is accepted and dispatched. Subsequent mailings must also be verified until the mailer demonstrates his mailing statements are being prepared accurately.

.83 Discrepancies.

Where the verification discloses discrepancies which in the opinion of the postmaster are substantial and which cannot be resolved, the postmaster will submit a memorandum of the facts with a complete report on the reverse of form 3501, Application for Second Class Mail Privileges, to the Office of Mail Classification, Rates and Classification Department, for advice and instructions before taking further action.

Exhibit 125.742

Computation of New Key Rate—Form 3541

U.S. POSTAL SERVICE
STATEMENT OF MAILING—SECOND CLASS PUBLICATIONS

PUBLICATION NO.	NAME OF PUBLICATION OR NEWS AGENT	DATE OF MAILING (Mo.) (Day) (Yr.)
	Mayville Press	

POST OFFICE AND STATE	ZIP CODE	FINANCE NUMBER	When this statement is for ALL ISSUES for a calendar month, furnish the following information:
Mayville, MD	21104	00–0000	NUMBER OF ISSUES:

DATE OF ISSUE PRINTED IN COPIES	FREQUENCY OF ISSUE	AVERAGE WEIGHT PER COPY FOR THIS ISSUE (125.62)	WEIGHT OF ONE SHEET (125.64, PSM)	COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE
	Daily except Sundays & Holidays	_____ LBS.	_____ LBS.	_____ LBS.

When postage is computed at the key rate, the lines for Zones 1 to 8 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in item 1 during the 12-month intervals.

EDITION CODE OR KEY	STATEMENT NO. (In sequence)	FREIGHT BILL NO.	POST OFFICE-COMPUTED AVERAGE OR COMBINED WEIGHT PER COPY
			_____ LBS.

OUTSIDE COUNTY — POUND RATE

1. Advertising Portion	ZONE	A SAMPLE COPIES	B SUBSCRIBERS' COPIES	C TOTAL COPIES	D TOTAL (Pounds)	E ADVERTISING PORTION (Pounds)	F. POSTAGE RATE PER POUND OR FRACTION: REGULAR	SPECIAL	CLASSROOM	G COMPUTED POSTAGE
PERCENTAGE FOR: ONE ISSUE ☐	1 AND 2		2621 X 10.7	= 280.447			18.7¢	8.7¢	4.2¢	
	3		3971 X 11.5	= 226.665			11.5	7.4	4.8	
	4		3052 X 13.0	= 136.760			13.8	8.8	6.1	
OR ALL ISSUES for a calendar month ☐	5		870 X 14.9	= 25.330			14.9	10.8	7.8	
	6		324 X 16.9	= 20.956			16.8	11.7	8.8	
	7		98 X 18.7	= 7.106			18.7	12.8	11.1	
	8		21 X 20.9	= 4.389			20.8	13.5	12.9	
~~TOTAL ZONES~~			5,997	$701.653			Total advertising postage			
2. TOTAL POUNDS ALL ZONES				701.653 / 5997	= .117001		.117001			
3. Total advertising portion (Col. E line 2)							Key rate, if used			
4. Nonadvertising Portion (Col. D line 2 minus line 3)							8.8¢	4.2¢	3.3¢	

5. PER PIECE CHARGE (in addition to the pound rate)		NO. OF ADDRESSED PIECES				
☐ REGULAR RATE OR ☐ SCIENCE OF AGRICULTURE	☐ mailing 5,000 or more copies per issue outside county		2.5¢			
	☐ mailing under 5,000 copies per issue outside county	NO. OF ADDRESSED PIECES	8.8¢			
☐ SPECIAL RATE OR ☐ QUALIFIED CLASSROOM PUBLICATION		NO. OF ADDRESSED PIECES		1.1¢	0.8¢	

IN COUNTY

	Sample Copies	Subscriber Copies	Total Copies		
6. POUND RATE				TOTAL POUNDS	2.1¢ PER POUND
7. PER PIECE CHARGE This charge is in addition to the pound rate.				NO. OF ADDRESSED PIECES	8.7¢
8. Copies at local or headquarters rates (132.111a and b)				NO. OF COPIES	1.8¢ / 2.9¢ If over 3 oz. and less than 5 lbs.

FOREIGN

	WEIGHT PER COPY (must include the wrapping)	Sample Copies	Subscriber Copies	Total Copies	
9. Copies to PUAS countries except Canada. See Appendix A, Table 3-7, Publication 42					RATE PER COPY
10. Copies to all other countries and Canada. See Appendix A, Table 3-7, Publication 42					RATE PER COPY

11. NONSUBSCRIBER COPIES (Commingled with subscribers' copies)	a. NO. OF COPIES	b. ADDRESSED PIECES @ 4.5¢ (1) No.	(2) POSTAGE	c. TOTAL POUNDS @ 13.6¢ (1) No.	(2) POSTAGE	ITEM 11b(2) PLUS 11c(2)

MAILED BY (Signature required)	COMPUTED BY (Signature required)	TOTAL POSTAGE CHARGE
Jack Mays	W. Preston Konrad By James Boone	
TELEPHONE NO.		

PS Form 3541 (Master must fit in unshaded blocks) FINANCIAL DOCUMENT - FORWARD TO FINANCE OFFICER

Exhibit 125.743A (p.1)

Computation of Postage Based on Mailings of One Issue Only—Form 3541

U.S. POSTAL SERVICE
STATEMENT OF MAILING—SECOND CLASS PUBLICATIONS

PUBLICATION NO.	NAME OF PUBLICATION OR NEWS AGENT	DATE OF MAILING (Mo.) (Day) (Yr.)
	Mayville Press	07 07 77

POST OFFICE AND STATE	ZIP CODE	FINANCE NUMBER	When this statement is for ALL ISSUES for a calendar month, furnish the following information:
Mayville, MD	21140	00–0000	NUMBER OF ISSUES:

DATE OF ISSUE PRINTED IN COPIES	FREQUENCY OF ISSUE	AVERAGE WEIGHT PER COPY FOR THIS ISSUE (125.62)	WEIGHT OF ONE SHEET (125.64, PSM)	COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE
July 7, 1977	Daily except Sundays & Holidays	.248750 LBS.	_____ LBS.	_____ LBS.

When postage is computed at the key rate, the lines for Zones 1 to 8 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in item 1 during the 12-month intervals.

EDITION CODE OR KEY	STATEMENT NO. (In sequence)	FREIGHT BILL NO.	POST OFFICE-COMPUTED AVERAGE OR COMBINED WEIGHT PER COPY
65.00			.248750 LBS.

OUTSIDE COUNTY — POUND RATE

1. Advertising Portion	ZONE	A SAMPLE COPIES	B SUBSCRIBERS' COPIES	C TOTAL COPIES	D TOTAL (Pounds)	E ADVERTISING PORTION (Pounds)	F. POSTAGE RATE PER POUND OR FRACTION: REGULAR	SPECIAL	CLASSROOM	G COMPUTED POSTAGE
PERCENTAGE FOR: ONE ISSUE ☐	1 AND 2						18.7¢	8.7¢	4.2¢	
	3						11.5	7.4	4.8	
	4						13.8	8.8	6.1	
OR ALL ISSUES for a calendar month ☐	5						14.9	10.8	7.8	
	6						16.8	11.7	8.8	
	7						18.7	12.8	11.1	
	8						20.8	13.5	12.9	
TOTAL COPIES			5,997	5,997			Total advertising postage			
2. TOTAL POUNDS ALL ZONES					1,492	970	.117001			113.50
3. Total advertising portion (Col. E line 2)					970		Key rate, if used			
4. Nonadvertising Portion (Col. D line 2 minus line 3)					522		8.8¢	4.2¢	3.3¢	41.76

5. PER PIECE CHARGE (in addition to the pound rate)		NO. OF ADDRESSED PIECES				
☒ REGULAR RATE OR ☐ SCIENCE OF AGRICULTURE	☒ mailing 5,000 or more copies per issue outside county	5,997	2.5¢			167.92
	☐ mailing under 5,000 copies per issue outside county	NO. OF ADDRESSED PIECES	8.8¢			
☐ SPECIAL RATE OR ☐ QUALIFIED CLASSROOM PUBLICATION		NO. OF ADDRESSED PIECES		1.1¢	0.8¢	

IN COUNTY

	Sample Copies	Subscriber Copies	Total Copies			
6. POUND RATE		1,182	1,182	TOTAL POUNDS 295	2.1¢ PER POUND	6.20
7. PER PIECE CHARGE This charge is in addition to the pound rate.				NO. OF ADDRESSED PIECES 1,182	8.7¢	8.28
8. Copies at local or headquarters rates (132.111a and b)		50		NO. OF COPIES 50	1.8¢ / 2.9¢ If over 3 oz. and less than 5 lbs.	.90

FOREIGN

	WEIGHT PER COPY (must include the wrapping)	Sample Copies	Subscriber Copies	Total Copies		
9. Copies to PUAS countries except Canada. See Appendix A, Table 3-7, Publication 42			100	100	RATE PER COPY 8¢	8.00
10. Copies to all other countries and Canada. See Appendix A, Table 3-7, Publication 42	4 oz.		50	50	RATE PER COPY 9¢	4.50

11. NONSUBSCRIBER COPIES (Commingled with subscribers' copies)	a. NO. OF COPIES	b. ADDRESSED PIECES @ 4.5¢ (1) No.	(2) POSTAGE	c. TOTAL POUNDS @ 13.6¢ (1) No.	(2) POSTAGE	ITEM 11b(2) PLUS 11c(2)

MAILED BY (Signature required)	COMPUTED BY (Signature required)	TOTAL POSTAGE CHARGE
Jack Mays	William Preston	$351.06
TELEPHONE NO.		

PS Form 3541 (Master must fit in unshaded blocks) FINANCIAL DOCUMENT - FORWARD TO FINANCE OFFICER

Computation of Postage Based on Mailings of One Issue Only
Form 3541

U.S. POSTAL SERVICE
STATEMENT OF MAILING—SECOND CLASS PUBLICATIONS

PUBLICATION NO.	NAME OF PUBLICATION OR NEWS AGENT	DATE OF MAILING (Mo.) (Day) (Yr.)
	Mayville Press Advocate	07 07 77

POST OFFICE AND STATE	ZIP CODE	FINANCE NUMBER	When this statement is for ALL ISSUES for a calendar month, furnish the following information:
Mayville, MD	21140	0000	NUMBER OF ISSUES:

DATE OF ISSUE PRINTED IN COPIES	FREQUENCY OF ISSUE	AVERAGE WEIGHT PER COPY FOR THE ISSUE (125.62)	WEIGHT OF ONE SHEET (125.64, PSM)	COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE
July 7, 1977	Daily except Sundays & Holidays	.248750 LBS.	LBS.	LBS.

When postage is computed at the key rate, the lines for Zones 1 to 8 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in item 1 during the 12-month intervals.

EDITION CODE OR KEY	STATEMENT NO. (In sequence)	FREIGHT BILL NO.	POST OFFICE-COMPUTED AVERAGE OR COMBINED WEIGHT PER COPY
			.248750 LBS.

OUTSIDE COUNTY — POUND RATE

1. Advertising Portion	ZONE	A SAMPLE COPIES	B SUBSCRIBERS' COPIES	C TOTAL COPIES	D TOTAL (Pounds)	E ADVERTISING PORTION (Pounds)	F. POSTAGE RATE PER POUND OR FRACTION: REGULAR	SPECIAL	CLASSROOM	G COMPUTED POSTAGE
PERCENTAGE FOR:	1 AND 2						10.7¢	8.3¢	4.2¢	
ONE ISSUE	3		2,621	2,621	652	313	11.8	7.4	4.8	33.50
48.00	4		1,971	1,971	491	236	13.8	8.8	5.1	27.14
OR ALL ISSUES for a calendar month	5		1,052	1,052	262	126	14.8	10.3	7.8	16.38
	6		170	170	43	21	16.8	11.7	8.8	3.13
	7		124	124	31	15	18.7	12.8	11.1	2.54
	8		38	38	10	5	20.8	13.8	12.8	.94
TOTAL COPIES			21	21	6	3				.63
			5,997	5,997			Total advertising postage			84.26
2. TOTAL POUNDS ALL ZONES					1,492					
3. Total advertising portion (Col. E line 2)					719		Key rate, if used			
4. Nonadvertising Portion (Col. D line 2 minus line 3)					773		8.8¢	4.2¢	3.3¢	61.84
5. PER PIECE CHARGE (in addition to the pound rate): ☒ REGULAR RATE OR ☐ SCIENCE OF AGRICULTURE — ☒ mailing 5,000 or more copies per issue outside county; ☐ mailing under 5,000 copies per issue outside county					NO. OF ADDRESSED PIECES 4,977		2.8¢			139.92
					NO. OF ADDRESSED PIECES		8.8¢			
☐ SPECIAL RATE OR ☐ QUALIFIED CLASSROOM PUBLICATION					NO. OF ADDRESSED PIECES			1.1¢	0.8¢	

IN COUNTY

	Sample Copies	Subscriber Copies	Total Copies			
6. POUND RATE		1,182	1,182	TOTAL POUNDS 295	2.1¢ PER POUND	6.20
7. PER PIECE CHARGE This charge is in addition to the pound rate.				NO. OF ADDRESSED PIECES 1,182	0.7¢	8.28
8. Copies at local or headquarters rates (132.111a and b)	Sample Copies	Subscriber Copies		NO. OF COPIES	1.0¢ / 2.5¢ If over 2 ozs. and less than 3 ozs.	

FOREIGN

	WEIGHT PER COPY (must include the wrapping)	Sample Copies	Subscriber Copies	Total Copies	
9. Copies to PUAS countries except Canada. See Appendix A, Table 3-7, Publication 42					RATE PER COPY
10. Copies to all other countries and Canada. See Appendix A, Table 3-7, Publication 42		Sample Copies	Subscriber Copies	Total Copies	RATE PER COPY

11. NONSUBSCRIBER COPIES (Commingled with subscribers' copies)	a. NO. OF COPIES	b. ADDRESSED PIECES @ 4.5¢ (1) No.	(2) POSTAGE	c. TOTAL POUNDS @ 13.6¢ (1) No.	(2) POSTAGE	ITEM 11b(2) PLUS 11c(2)

MAILED BY (Signature required)	COMPUTED BY (Signature required)	TOTAL POSTAGE CHARGE
Jane Mays	William Preston	$300.50

TELEPHONE NO.

PS Form 3541 (Master must fill in unshaded blocks) FINANCIAL DOCUMENT - FORWARD TO FINANCE OFFICER

Computation of Postage Based on Mailings of One Issue Only
Form 3541

U.S. POSTAL SERVICE
STATEMENT OF MAILING—SECOND CLASS PUBLICATIONS

PUBLICATION NO.	NAME OF PUBLICATION OR NEWS AGENT	DATE OF MAILING (Mo.) (Day) (Yr.)
	Mayville Press	07 07 77

POST OFFICE AND STATE	ZIP CODE	FINANCE NUMBER	When this statement is for ALL ISSUES for a calendar month, furnish the following information:
Mayville, MD	21240	0000	NUMBER OF ISSUES:

DATE OF ISSUE PRINTED IN COPIES	FREQUENCY OF ISSUE	AVERAGE WEIGHT PER COPY FOR THE ISSUE (125.62)	WEIGHT OF ONE SHEET (125.64, PSM)	COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE
July 7, 1977	Daily except Sundays & Holidays	.248750 LBS.	LBS.	LBS.

When postage is computed at the key rate, the lines for Zones 1 to 8 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in item 1 during the 12-month intervals.

EDITION CODE OR KEY	STATEMENT NO. (In sequence)	FREIGHT BILL NO.	POST OFFICE-COMPUTED AVERAGE OR COMBINED WEIGHT PER COPY
			.248750 LBS.

OUTSIDE COUNTY — POUND RATE

1. Advertising Portion	ZONE	A SAMPLE COPIES	B SUBSCRIBERS' COPIES	C TOTAL COPIES	D TOTAL (Pounds)	E ADVERTISING PORTION (Pounds)	F. POSTAGE RATE PER POUND OR FRACTION: REGULAR	SPECIAL	CLASSROOM	G COMPUTED POSTAGE
PERCENTAGE FOR:	1 AND 2						10.7¢	8.3¢	4.2¢	
ONE ISSUE	3						11.8	7.4	4.8	
Not over 75	4						13.8	8.8	5.1	
OR ALL ISSUES for a calendar month	5						14.8	10.3	7.8	
	6						16.8	11.7	8.8	
	7						18.7	12.8	11.3	
	8						20.8	13.8	12.8	
TOTAL COPIES			5,997	5,997			Total advertising postage			
2. TOTAL POUNDS ALL ZONES					1,492	1,492	.117001			174.57
3. Total advertising portion (Col. E line 2)					1,492		Key rate, if used			
4. Nonadvertising Portion (Col. D line 2 minus line 3)					Waived		8.8¢	4.2¢	3.3¢	
5. PER PIECE CHARGE (in addition to the pound rate): ☒ REGULAR RATE OR ☐ SCIENCE OF AGRICULTURE — ☒ mailing 5,000 or more copies per issue outside county; ☐ mailing under 5,000 copies per issue outside county					NO. OF ADDRESSED PIECES 5,997		2.8¢			167.92
					NO. OF ADDRESSED PIECES		8.8¢			
☐ SPECIAL RATE OR ☐ QUALIFIED CLASSROOM PUBLICATION					NO. OF ADDRESSED PIECES			1.1¢	0.8¢	

IN COUNTY

	Sample Copies	Subscriber Copies	Total Copies			
6. POUND RATE		1,182	1,182	TOTAL POUNDS 295	2.1¢ PER POUND	6.20
7. PER PIECE CHARGE This charge is in addition to the pound rate.				NO. OF ADDRESSED PIECES 1,182	0.7¢	8.28
8. Copies at local or headquarters rates (132.111a and b)	Sample Copies	Subscriber Copies		NO. OF COPIES	1.0¢ / 2.5¢ If over 2 ozs. and less than 3 ozs.	

FOREIGN

	WEIGHT PER COPY (must include the wrapping)	Sample Copies	Subscriber Copies	Total Copies	
9. Copies to PUAS countries except Canada. See Appendix A, Table 3-7, Publication 42					RATE PER COPY
10. Copies to all other countries and Canada. See Appendix A, Table 3-7, Publication 42		Sample Copies	Subscriber Copies	Total Copies	RATE PER COPY

11. NONSUBSCRIBER COPIES (Commingled with subscribers' copies)	a. NO. OF COPIES	b. ADDRESSED PIECES @ 4.5¢ (1) No.	(2) POSTAGE	c. TOTAL POUNDS @ 13.6¢ (1) No.	(2) POSTAGE	ITEM 11b(2) PLUS 11c(2)

MAILED BY (Signature required)	COMPUTED BY (Signature required)	TOTAL POSTAGE CHARGE
Jane Mays	William Preston	$356.97

TELEPHONE NO.

PS Form 3541 (Master must fill in unshaded blocks) FINANCIAL DOCUMENT - FORWARD TO FINANCE OFFICER

Preparation for Mailing:
Second-Class Bulk Mailings

Exhibit 125.743B

Computation of Postage Based on Mailings of All Issues for Calendar Month

Form 3541

U.S. POSTAL SERVICE
STATEMENT OF MAILING—SECOND CLASS PUBLICATIONS

PUBLICATION NO.	NAME OF PUBLICATION OR NEWS AGENT	DATE OF MAILING (Mo.) (Day) (Yr.)
	Mayville Press	07 1 77

POST OFFICE AND STATE	ZIP CODE	FINANCE NUMBER	When this statement is for ALL ISSUES for a calendar month, furnish the following information:
Mayville, MD	21140	0000	NUMBER OF ISSUES: 25

DATE OF ISSUE PRINTED IN COPIES	FREQUENCY OF ISSUE	AVERAGE WEIGHT PER COPY FOR THE ISSUE (125.62)	WEIGHT OF ONE SHEET (125.64, PSM)	COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE
July 1-31, 1977 inclusive	Daily except Sundays & Holidays	.025831 LBS.	LBS.	6.218750 LBS.

When postage is computed at the key rate, the lines for Zones 1 to 8 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in item 1 during the 12-month intervals.

EDITION CODE OR KEY	STATEMENT NO. (If sequence)	FREIGHT BILL NO.	POST OFFICE-COMPUTED AVERAGE OR COMBINED WEIGHT PER COPY
			6.218750 LBS.

OUTSIDE COUNTY — POUND RATE

1. Advertising Portion	ZONE	A SAMPLE COPIES	B SUBSCRIBERS' COPIES	C TOTAL COPIES	D TOTAL (Pounds)	E ADVERTISING PORTION (Pounds)	F. POSTAGE RATE PER POUND OR FRACTION: REGULAR	SPECIAL	CLASSROOM	G COMPUTED POSTAGE
PERCENTAGE FOR:	1 AND 2						18.7¢	8.7¢	4.3¢	
ONE ISSUE ☐	3						11.5	7.4	4.0	
	4						12.0	8.0	8.1	
OR ALL ISSUES for a calendar month 65 00	5						14.0	10.5	7.0	
	6						15.0	11.7	9.3	
	7						18.7	12.5	11.1	
	8						20.0	13.5	12.0	
TOTAL COPIES			5,997	5,997			Total advertising postage			
2. TOTAL POUNDS ALL ZONES					37,294	24,242	.117001			2,836.34
3. Total advertising portion (Col. E line 2)					24,242		▲ Key rate, if used ▲			
4. Nonadvertising Portion (Col. D line 2 minus line 3)					13,052		8.0¢	4.3¢	3.3¢	1,044.16
5. PER PIECE CHARGE (in addition to the pound rate): ☒ REGULAR RATE OR ☐ SCIENCE OF AGRICULTURE — ☒ mailing 5,000 or more copies per issue outside county; ☐ mailing under 5,000 copies per issue outside county					NO. OF ADDRESSED PIECES 149,925		2.8¢			4,197.90
					NO. OF ADDRESSED PIECES		8.0¢			
☐ SPECIAL RATE OR ☐ QUALIFIED CLASSROOM PUBLICATION					NO. OF ADDRESSED PIECES			1.1¢	8.0¢	

IN COUNTY

	Sample Copies	Subscriber Copies	Total Copies			
6. POUND RATE		1,182	1,182	TOTAL POUNDS 7,351	2.1¢ PER POUND	154.38
7. PER PIECE CHARGE This charge is in addition to the pound rate.				NO. OF ADDRESSED PIECES 29,550	8.7¢	206.85
8. Copies at local or headquarters rates (132.111a and b)				NO. OF COPIES	1.8¢ / 3.9¢ If over 2 ozs. and less than weekly	
	Sample Copies	Subscriber Copies		50	1,250	22.50

FOREIGN — WEIGHT PER COPY (must include the wrapping): 4 OZ.

	Sample Copies	Subscriber Copies	Total Copies	RATE PER COPY	
9. Copies to PI.45 countries except Canada, See Appendix A, Table 3-7, Publication 42		100	2,500	8¢	200.00
10. Copies to all other countries and Canada, See Appendix A, Table 3-7, Publication 42		50	1,250	9¢	112.50

11. NONSUBSCRIBER COPIES (Commingled with subscribers' copies)	a. NO. OF COPIES	b. ADDRESSED PIECES @ 4.5¢ (1) No.	(2) POSTAGE	c. TOTAL POUNDS @ 13.6¢ (1) No.	(2) POSTAGE	(ITEM 11a(2) PLUS 11c(2))

MAILED BY (Signature required)	COMPUTED BY (Signature required)	TOTAL POSTAGE CHARGE	
Joe Mayz	William Preston		$8,774.63
TELEPHONE NO.			

PS Form 3541 (Mailer must fill in unshaded blocks) FINANCIAL DOCUMENT - FORWARD TO FINANCE OFFICER

Exhibit 125.743C

Preparation for Mailing:
Second-Class Bulk Mailings

Computation of Postage on Mailings of One Issue of a Qualifying Classroom Publication Issued Weekly

Form 3541

U.S. POSTAL SERVICE
STATEMENT OF MAILING—SECOND CLASS PUBLICATIONS

PUBLICATION NO.	NAME OF PUBLICATION OR NEWS AGENT	DATE OF MAILING (Mo.) (Day) (Yr.)
	Mayville Primary Review	07 07 77

POST OFFICE AND STATE	ZIP CODE	FINANCE NUMBER	When this statement is for ALL ISSUES for a calendar month, furnish the following information:
Mayville, MD	21140	0000	NUMBER OF ISSUES:

DATE OF ISSUE PRINTED IN COPIES	FREQUENCY OF ISSUE	AVERAGE WEIGHT PER COPY FOR THE ISSUE (125.62)	WEIGHT OF ONE SHEET (125.64, PSM)	COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE
July 7, 1977	Weekly	.125000 LBS.	LBS.	LBS.

When postage is computed at the key rate, the lines for Zones 1 to 8 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in item 1 during the 12-month intervals.

EDITION CODE OR KEY	STATEMENT NO. (If sequence)	FREIGHT BILL NO.	POST OFFICE-COMPUTED AVERAGE OR COMBINED WEIGHT PER COPY
			.125000 LBS.

OUTSIDE COUNTY — POUND RATE

1. Advertising Portion	ZONE	A SAMPLE COPIES	B SUBSCRIBERS' COPIES	C TOTAL COPIES	D TOTAL (Pounds)	E ADVERTISING PORTION (Pounds)	F. POSTAGE RATE PER POUND OR FRACTION: REGULAR	SPECIAL	CLASSROOM	G COMPUTED POSTAGE
PERCENTAGE FOR:	1 AND 2						18.7¢	8.7¢	4.3¢	
ONE ISSUE None	3						11.5	7.4	4.0	
	4						12.0	8.0	8.1	
OR ALL ISSUES for a calendar month ☐	5						14.0	10.5	7.0	
	6						15.0	11.7	9.3	
	7						18.7	12.5	11.1	
	8						20.0	13.5	12.0	
TOTAL COPIES			120,000	120,000			Total advertising postage			
2. TOTAL POUNDS ALL ZONES										
3. Total advertising portion (Col. E line 2)							▲ Key rate, if used ▲			
4. Nonadvertising Portion (Col. D line 2 minus line 3)					15,000		8.0¢	4.3¢	3.3¢	495.00
5. PER PIECE CHARGE (in addition to the pound rate): ☐ REGULAR RATE OR ☐ SCIENCE OF AGRICULTURE — ☐ mailing 5,000 or more copies per issue outside county; ☐ mailing under 5,000 copies per issue outside county					NO. OF ADDRESSED PIECES		2.8¢			
					NO. OF ADDRESSED PIECES		8.0¢			
☐ SPECIAL RATE OR ☒ QUALIFIED CLASSROOM PUBLICATION					NO. OF ADDRESSED PIECES 120,000			1.1¢	8.0¢	960.00

IN COUNTY

	Sample Copies	Subscriber Copies	Total Copies			
6. POUND RATE		504	504	TOTAL POUNDS 63	2.1¢ PER POUND	1.33
7. PER PIECE CHARGE This charge is in addition to the pound rate.				NO. OF ADDRESSED PIECES 504	8.7¢	3.53
8. Copies at local or headquarters rates (132.111a and b)	Sample Copies	Subscriber Copies		NO. OF COPIES	1.8¢ / 3.9¢ If over 2 ozs. and less than weekly	

FOREIGN — WEIGHT PER COPY (must include the wrapping)

	Sample Copies	Subscriber Copies	Total Copies	RATE PER COPY
9. Copies to PI.45 countries except Canada, See Appendix A, Table 3-7, Publication 42				
10. Copies to all other countries and Canada, See Appendix A, Table 3-7, Publication 42				RATE PER COPY

11. NONSUBSCRIBER COPIES (Commingled with subscribers' copies)	a. NO. OF COPIES	b. ADDRESSED PIECES @ 4.5¢ (1) No.	(2) POSTAGE	c. TOTAL POUNDS @ 13.6¢ (1) No.	(2) POSTAGE	(ITEM 11a(2) PLUS 11c(2))

MAILED BY (Signature required)	COMPUTED BY (Signature required)	TOTAL POSTAGE CHARGE	
Joe Mayz	William Preston		$1,459.86
TELEPHONE NO.			

PS Form 3541 (Mailer must fill in unshaded blocks) FINANCIAL DOCUMENT - FORWARD TO FINANCE OFFICER

Exhibit 125.743D

Computation of Postage Based on Mailings of One Issue of a Qualified Nonprofit Organization Issued Weekly Containing Less than 10% Advertising

Form 3541

U.S. POSTAL SERVICE
STATEMENT OF MAILING—SECOND CLASS PUBLICATIONS

PUBLICATION NO.	NAME OF PUBLICATION OR NEWS AGENT	DATE OF MAILING (Mo.) (Day) (Yr.)
	Mayville Bulletin	07 08 77

POST OFFICE AND STATE	ZIP CODE	FINANCE NUMBER	When this statement is for ALL ISSUES for a calendar month, furnish the following information.
Mayville, MD	21400	0000	NUMBER OF ISSUES:

DATE OF ISSUE PRINTED IN COPIES	FREQUENCY OF ISSUE	AVERAGE WEIGHT PER COPY FOR THE ISSUE (125.62)	WEIGHT OF ONE SHEET (125.64, PSM)	COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE
July 7, 1977	Weekly	.093750 LBS.	LBS.	LBS.

When postage is computed at the key rate, the lines for Zones 1 to 8 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in item 1 during the 12-month intervals.

EDITION CODE OR KEY	STATEMENT NO. (In sequence)	FREIGHT BILL NO.	POST OFFICE-COMPUTED AVERAGE OR COMBINED WEIGHT PER COPY
			.093750 LBS.

OUTSIDE COUNTY — 1. Advertising Portion

ZONE	A SAMPLE COPIES	B SUBSCRIBERS' COPIES	C TOTAL COPIES	D TOTAL (Pounds)	E ADVERTISING PORTION (Pounds)	F. POSTAGE RATE PER POUND OR FRACTION: REGULAR	SPECIAL	CLASSROOM	G COMPUTED POSTAGE
PERCENTAGE FOR: 1 AND 2						18.7¢	8.3¢	4.2¢	
ONE ISSUE 3						11.5	7.4	4.8	
9.60 4						13.8	8.9	6.1	
OR ALL ISSUES for a calendar month 5						14.8	10.5	7.8	
6						16.8	11.7	8.9	
7						18.7	12.8	11.1	
8						20.8	13.5	12.8	
TOTAL COPIES		10,005	10,005			Total advertising postage			
2. TOTAL POUNDS ALL ZONES				938					
3. Total advertising portion (Col. E line 2)				0		▲ Key rate, if used ▲			
4. Nonadvertising Portion (Col. D line 2 minus line 3)				938		8.8¢	4.2¢	3.3¢	39.40
5. PER PIECE CHARGE (in addition to the pound rate): ☐ REGULAR RATE OR ☐ SCIENCE OF AGRICULTURE — ☐ mailing 5,000 or more copies per issue outside county				NO. OF ADDRESSED PIECES		2.8¢			
☐ mailing under 5,000 copies per issue outside county				NO. OF ADDRESSED PIECES		0.5¢			
☒ SPECIAL RATE OR ☐ QUALIFIED CLASSROOM PUBLICATION				NO. OF ADDRESSED PIECES 10,005			1.1¢	0.5¢	110.06

IN COUNTY

	Sample Copies	Subscriber Copies	Total Copies				
6. POUND RATE		15,008	15,008	TOTAL POUNDS 1,407	2.1¢ PER POUND		29.55
7. PER PIECE CHARGE This charge is in addition to the pound rate.				NO. OF ADDRESSED PIECES 15,008	0.7¢		105.06
8. Copies at local or headquarters rates (132.111a and b)	Sample Copies	Subscriber Copies	NO. OF COPIES	1.8¢	2.5¢ If over 2 ozs. and less than 5 pounds		

FOREIGN

	Weight per copy (must include the wrapping)	Sample Copies	Subscriber Copies	Total Copies		
9. Copies to PUAS countries except Canada, See Appendix A, Table 3-7, Publication 42			2	2	RATE PER COPY 4¢	.08
10. Copies to all other countries and Canada, See Appendix A, Table 3-7, Publication 42	2 oz.		3	3	RATE PER COPY 5¢	.15

11. NONSUBSCRIBER COPIES (Commingled with subscribers' copies)	a. NO. OF COPIES	b. ADDRESSED PIECES @ 4.5¢ (1) No.	(2) POSTAGE	c. TOTAL POUNDS @ 13.5¢ (1) No.	(2) POSTAGE	ITEM 11b(2) PLUS 11c(2)

MAILED BY (Signature required)	COMPUTED BY (Signature required)	TOTAL POSTAGE CHARGE
Joe Mayr	William Preston	$284.30

TELEPHONE NO.

PS Form 3541 (Mailer must fill in unshaded blocks) FINANCIAL DOCUMENT - FORWARD TO FINANCE OFFICER

Exhibit 125.743E

Computation of Postage Based on Mailings of One Issue of a Qualified Nonprofit Organization Issued Weekly Containing More than 10% Advertising

Form 3541

U.S. POSTAL SERVICE
STATEMENT OF MAILING—SECOND CLASS PUBLICATIONS

PUBLICATION NO.	NAME OF PUBLICATION OR NEWS AGENT	DATE OF MAILING (Mo.) (Day) (Yr.)
	Mayville Bulletin	07 08 77

POST OFFICE AND STATE	ZIP CODE	FINANCE NUMBER	When this statement is for ALL ISSUES for a calendar month, furnish the following information.
Mayville, MD	21400	0000	NUMBER OF ISSUES:

DATE OF ISSUE PRINTED IN COPIES	FREQUENCY OF ISSUE	AVERAGE WEIGHT PER COPY FOR THE ISSUE (125.62)	WEIGHT OF ONE SHEET (125.64, PSM)	COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE
July 7, 1977	Weekly	.093750 LBS.	LBS.	LBS.

When postage is computed at the key rate, the lines for Zones 1 to 8 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in item 1 during the 12-month intervals.

EDITION CODE OR KEY	STATEMENT NO. (In sequence)	FREIGHT BILL NO.	POST OFFICE-COMPUTED AVERAGE OR COMBINED WEIGHT PER COPY
			.093750 LBS.

OUTSIDE COUNTY — 1. Advertising Portion

ZONE	A SAMPLE COPIES	B SUBSCRIBERS' COPIES	C TOTAL COPIES	D TOTAL (Pounds)	E ADVERTISING PORTION (Pounds)	F. POSTAGE RATE PER POUND OR FRACTION: REGULAR	SPECIAL	CLASSROOM	G COMPUTED POSTAGE
PERCENTAGE FOR: 1 AND 2		9,065	9,065	850	128	18.7¢	8.3¢	4.2¢	8.58
ONE ISSUE 3		320	320	30	5	11.5	7.4	4.8	.37
15.00 4		213	213	20	3	13.8	8.9	6.1	.27
OR ALL ISSUES for a calendar month 5		192	192	18	3	14.8	10.5	7.8	.32
6		106	106	10	2	16.8	11.7	8.9	.24
7		53	53	5	1	18.7	12.8	11.1	.13
8		53	53	5	1	20.8	13.5	12.8	.14
TOTAL COPIES		10,002	10,002			Total advertising postage			10.05
2. TOTAL POUNDS ALL ZONES				938	143				
3. Total advertising portion (Col. E line 2)				143		▲ Key rate, if used ▲			
4. Nonadvertising Portion (Col. D line 2 minus line 3)				795		8.8¢	4.2¢	3.3¢	33.39
5. PER PIECE CHARGE (in addition to the pound rate): ☐ REGULAR RATE OR ☐ SCIENCE OF AGRICULTURE — ☐ mailing 5,000 or more copies per issue outside county				NO. OF ADDRESSED PIECES		2.8¢			
☐ mailing under 5,000 copies per issue outside county				NO. OF ADDRESSED PIECES		0.5¢			
☒ SPECIAL RATE OR ☐ QUALIFIED CLASSROOM PUBLICATION				NO. OF ADDRESSED PIECES 10,002			1.1¢	0.5¢	110.03

IN COUNTY

	Sample Copies	Subscriber Copies	Total Copies				
6. POUND RATE		15,008	15,008	TOTAL POUNDS 1,407	2.1¢ PER POUND		29.55
7. PER PIECE CHARGE This charge is in addition to the pound rate.				NO. OF ADDRESSED PIECES 15,008	0.7¢		105.06
8. Copies at local or headquarters rates (132.111a and b)	Sample Copies	Subscriber Copies	NO. OF COPIES	1.8¢	2.5¢ If over 2 ozs. and less than 5 pounds		

FOREIGN

	Weight per copy (must include the wrapping)	Sample Copies	Subscriber Copies	Total Copies		
9. Copies to PUAS countries except Canada, See Appendix A, Table 3-7, Publication 42			2	2	RATE PER COPY 4¢	.08
10. Copies to all other countries and Canada, See Appendix A, Table 3-7, Publication 42	2 oz.		3	3	RATE PER COPY 5¢	.15

11. NONSUBSCRIBER COPIES (Commingled with subscribers' copies)	a. NO. OF COPIES	b. ADDRESSED PIECES @ 4.5¢ (1) No.	(2) POSTAGE	c. TOTAL POUNDS @ 13.5¢ (1) No.	(2) POSTAGE	ITEM 11b(2) PLUS 11c(2)

MAILED BY (Signature required)	COMPUTED BY (Signature required)	TOTAL POSTAGE CHARGE
Joe Mayr	William Preston	$288.31

TELEPHONE NO.

PS Form 3541 (Mailer must fill in unshaded blocks) FINANCIAL DOCUMENT - FORWARD TO FINANCE OFFICER

Exhibit 125.743F

Computation of Postage Based on Mailings of One Issue of a Qualified Science of Agriculture Publication
Form 3541

U.S. POSTAL SERVICE
STATEMENT OF MAILING—SECOND CLASS PUBLICATIONS

PUBLICATION NO.	NAME OF PUBLICATION OR NEWS AGENT	DATE OF MAILING (Mo.) (Day) (Yr.)
	Mayville Progressive Farmer	0 7 0 7 7 7

POST OFFICE AND STATE	ZIP CODE	FINANCE NUMBER	When this statement is for ALL ISSUES for a calendar month, furnish the following information.
Mayville, MD	2 1 1 4 0	0 0 _ 0 0 0 0	NUMBER OF ISSUES:

DATE OF ISSUE PRINTED IN COPIES	FREQUENCY OF ISSUE	AVERAGE WEIGHT PER COPY FOR THE ISSUE (125.64, PSM)	WEIGHT OF ONE SHEET (125.64, PSM)	COMBINED WEIGHT OF ONE COPY FROM EACH ISSUE
July 1977	Monthly	.375000 LBS.	LBS.	LBS.

When postage is computed at the key rate, the lines for Zones 1 to 8 need not be completed except for one issue each calendar year at 12-month intervals. The total zone mailings must be entered in item 1 during the 12-month intervals.

EDITION CODE OR KEY	STATEMENT NO. (In sequence)	FREIGHT BILL NO.	POST OFFICE-COMPUTED AVERAGE OR COMBINED WEIGHT PER COPY
			.375000 LBS.

OUTSIDE COUNTY — POUND RATE

1. Advertising Portion

	ZONE	A SAMPLE COPIES	B SUBSCRIBERS' COPIES	C TOTAL COPIES	D TOTAL (Pounds)	E ADVERTISING PORTION (Pounds)	F POSTAGE RATE PER POUND OR FRACTION: REGULAR	SPECIAL	CLASSROOM	G COMPUTED POSTAGE
PERCENTAGE FOR:	1 AND 2	502	14,999	15,501	5,813	2,907	11.2¢	8.7¢	4.3¢	194.77
ONE ISSUE: 50.00	3		2,000	2,000	750	375	11.5	7.5	4.5	43.13
	4		1,000	1,000	375	188	13.0	8.3	6.1	24.44
OR ALL ISSUES for a calendar month ☐	5		501	501	188	94	14.5	10.5	7.3	14.01
	6		501	501	188	94	16.0	11.7	8.8	15.89
	7		501	501	188	94	18.7	12.8	11.3	17.58
	8		501	501	188	94	20.0	13.5	12.0	19.65
TOTAL COPIES		502	20,003	20,505			Total advertising postage			329.47

2. TOTAL POUNDS ALL ZONES	7,690	3,846		
3. Total advertising portion (Col. E line 2)	3,846		▲ Key rate, if used ▲	
4. Nonadvertising Portion (Col. D line 2 minus line 3)	3,844		8.0¢ 4.2¢ 3.2¢	307.52
5. PER PIECE CHARGE (in addition to the pound rate) ☐ REGULAR RATE OR ☒ SCIENCE OF AGRICULTURE — ☑ mailing 5,000 or more copies per issue outside county	NO. OF ADDRESSED PIECES 20,505		2.8¢	574.14
☐ mailing under 5,000 copies per issue outside county	NO. OF ADDRESSED PIECES		8.0¢	
☐ SPECIAL RATE OR ☐ QUALIFIED CLASSROOM PUBLICATION	NO. OF ADDRESSED PIECES		1.1¢ 0.8¢	

IN COUNTY

	Sample Copies	Subscriber Copies	Total Copies			
6. POUND RATE		1,000	1,000	TOTAL POUNDS 375	2.1¢ PER POUND	7.88
7. PER PIECE CHARGE This charge is in addition to the pound rate.				NO. OF ADDRESSED PIECES 1,000	0.7¢	7.00
8. Copies at local or headquarters rates (132.111a and b)	Sample Copies	Subscriber Copies 250		NO. OF COPIES 250	1.0¢ 2.0¢ If over 2 oz. and less than 3 oz.	7.25

FOREIGN

	WEIGHT PER COPY (must include the wrapping)	Sample Copies	Subscriber Copies	Total Copies	
9. Copies to Pt. 39 countries except Canada. See Appendix A, Table 3-7, Publication 42					RATE PER COPY
10. Copies to all other countries and Canada. See Appendix A, Table 3-7, Publication 42		Sample Copies	Subscriber Copies	Total Copies	RATE PER COPY

11. NONSUBSCRIBER COPIES (Commingled with subscribers' copies)	a. NO. OF COPIES	b. ADDRESSED PIECES W/ 5¢ (1) No.	(2) POSTAGE	c. TOTAL POUNDS @ 11.2¢ (1) No.	(2) POSTAGE	(7 line 11(c)(2) PLUS 11(c)(2))

MAILED BY (Signature required)	COMPUTED BY (Signature required)	TOTAL POSTAGE CHARGE
Joe Mayz	William Preston	$1,233.26

TELEPHONE NO.

PS Form 3541 (Mailer must fill in unshaded blocks) FINANCIAL DOCUMENT - FORWARD TO FINANCE OFFICER

Computation of Postage Based on Mailings of One Issue of a Controlled Circulation Publication
Form 3541

MAILER MUST FILL IN ALL UNSHADED BLOCKS

FINANCE NO. (7-6)	U.S. POSTAL SERVICE STATEMENT OF MAILING-CONTROLLED CIRCULATION PUBLICATIONS	MAILING DATE (13-18) (Mo.) (Day) (Yr.)
0 0 - 0 0 0 0		0 7 0 8 7 7

POST OFFICE AND STATE	ZIP CODE	PUB. NO. (7-12)	NAME OF PUBLICATION
Mayville, MD	2 1 1 4 C		Industry Journal

DATE OF ISSUE PRINTED IN COPIES	FREQUENCY OF ISSUE	SIGNATURE OF MAILER
July 1977	Monthly	Joe Mayz

AVERAGE WEIGHT PER COPY .125000 LBS. — P.O. WEIGHT PER COPY (19-36) .125000 LBS.

1. DOMESTIC (The per piece charge is in addition to the pound rate.)	NO. OF COPIES	(37-54) 100,000	TOTAL WEIGHT	12,500 LBS.	
	TOTAL POUNDS	(55-62) 12,500	@ 11.7¢ per pound	(63-70) $ 1,462.50	
	NO. OF PIECES *	(71-77) 100,000	@ 3¢ per piece	(78-85) $ 3,600.00	
2. FOREIGN (See Appendix A, Table 3-8, Pub. 42)	NO. OF COPIES	(86-92) 50	RATE PER COPY: 6¢	(72-93) $ 3.00	
TOTAL POSTAGE CHARGE →				$ 5,065.50	

I certify that this mailing has been inspected to verify that it qualifies for the rate of postage being paid, and that it is properly prepared (and presorted where required). → SIGNATURE OF POSTAL REPRESENTATIVE: William Preston

* Number of packages of unaddressed copies and individually addressed copies.

PS Form 3541-A FINANCIAL DOCUMENT—FORWARD TO FINANCE OFFICE

RULES AND REGULATIONS

PART 131

FIRST CLASS

* * * * *

.233 Postage and fees.

* * * * *

i. Business reply mail (BRM) having postage affixed shall be handled the same as other BRM. No effort will be made to identify or separate pieces having postage affixed. Applicable BRM postage and fees will be charged without deducting the amount of any postage stamps affixed. However business reply permit holders may request a credit or refund as provided in 147.22 for the amount of postage affixed to BRM pieces by submitting a completed form 3533, Application and Voucher for Refund of Postage and Fees, to the postmaster along with evidence of payment of the amount of excess postage for which a credit or refund is desired. In order to receive a refund, business reply permit holders must present to the designated office properly faced and banded packages of 100 business reply envelopes, with identical amounts of postage affixed. A postmaster may accept a package of less than 100 business reply envelopes if necessary to prevent loss or hardship to a mailer. The address side of the envelope may be separated and submitted as evidence in lieu of the entire envelope. Note, however, that the BRM processing fees shall not be refunded.

PART 132

SECOND CLASS

132.1 Rates.

* * * * *

.13 Rates for nonsubscriber copies.

.131 Commingled and presorted with subscibers' copies.

Sample copies in excess of 10 percent allowance; copies to persons not included in the list of subscribers; 13.6 cents per pound or fraction of a pound, plus 4.5 cents per piece.

.132 Transient rate for noncommingled copies.

Mailed by persons other than the publishers or registered news agents; mailed by publishers or registered news agents and not commingled and presorted as a part of the regular mailing of subscriber copies; 10 cents for the first 2 ounces, 6 cents for each additional ounce or fraction thereof; or the fourth-class rate, whichever is lower. The rates are computed on each individually addressed copy or package of unaddressed copies.

* * * * *

.228 Nominal rate publications.

Publications designed primarily for circulation at nominal rates may not qualify for second-class privileges. Persons whose subscriptions are obtained at a nominal rate shall not be included as a part of the legitimate list of subscribers required by 132.225. Copies sent in fulfillment of subscriptions obtained at a nominal rate must be charged with postage at the applicable rate in 132.13. Nominal rate subscriptions include those which are sold:

* * * * *

.46 Copies not paid for by the addressee.

.461 Sample copies.

* * * * *

e. The appropriate postage rate provided by 132.13 must be paid on samples mailed in excess of the 10 percent limit.

133.4 Enclosures.

Enclosures may not be mailed at the controlled circulation postage rate. Independent materials, such as pop-up advertisements, decals, leaflets, tracts, booklets, pamphlets, catalogs, circulars, swatches, pressure sensitive labels, and envelopes are examples of enclosures which are subject to the appropriate first-or third-class postage rates. See 139.31.

133.5 Addressing, preparation and mailing.

.51 Addressing requirements.

See 122.7 for the applicable addressing requirements.

.52 Preparation requirements.

See 125.1, 125.2, 125.32 and 125.33 for the applicable preparation requirements.

.53 Submission of marked copy and mailing statement.

At the time of mailing the mailer must present a properly completed form 3541-A, Statement of Mailing-Controlled Circulation Publications, and a copy of each issue marked to show nonadvertising material. See 125.62 for the procedures the mailer is to follow to determine the average weight per copy to be used in completing form 3541-A.

133.6 Acceptance and verification.

.61 Examine mail preparation.

A Postal Service employee must verify that the mailing is prepared in accordance with 125.1, 125.2, 125.32, and 125.33. The average per copy weight must be verified by following the instructions in 125.62 as part of the acceptance procedure which must be completed before the mailing is dispatched.

.61 Qualification review.

An employee designated by the installation head must examine a copy of each issue to verify that it meets the qualification requirements of 133.21. In addition, each issue should be examined to determine whether it contains enclosures. If a publication is found to have any enclosures, postage at the appropriate first- or third-class postage rate must be charged for the enclosures. See 139.312.

.63 Mailing statement verfication.

.631 At least quarterly, all copies in a mailing of a periodical must be weighed to determine whether the total net weight (excluding tare weight) and the total copies reported on form 3541-A are correct. Except for quarterly publications, this verfication should be performed on a surprise basis for each publication during a different week each quarter. The postmaster must keep a log arranged alphabetically by publication title or in numerical sequence by publication number (assigned by the Office of Mail Classification) showing the name of the publication, the date of verfication, the issue verified, and the name of the verifying employee. The back of the applicable form 3541-A must be annotated to show the date of verification, issue verfied, average weight per copy for the issue, total number of copies, and total pounds, and the verifying employee must sign the report. An asterisk must be placed on form 3543 to indicate the issue verified. Work papers, documents and other data sufficient to prove a proper and thorough verification was performed must be attached to the applicable form 3541-A. The results of the verification should agree with the average weight per copy for the issue, the total number of copies in the mailing, and the total weight, as reported by the publisher on form 3541-A. If the verification discloses discrepancies, the postmaster and the publisher must resolve the discrepancies before the mail is accepted and dispatched. Subsequent mailings of any publication published more frequently than quarterly must also be verfied until the mailer demonstrates his mailing statements are being prepared accurately.

.632 If the number of addressed pieces shown form 3541-A is less than 90 percent of the reported number of copies, the piece count should be verified as part of the quarterly verification. This should be done by examining such records as the mailer's subscription list and address plates to determine the number of addressed pieces containing several copies of the publication.

133.8 Advertising.

The term "advertising" includes all material for the publication of which a valuable consideration is paid, accepted, or promised, that calls attention to something for the purpose of getting people to buy it, sell it, seek it, or support it. Moreover, if an advertising rate is charged for the publication of reading matter or other material, such material shall be deemed to be "advertising." Articles, items, and notices in the form of reading matter inserted in accordance with a custom or under-

standing that textual matter is to be inserted for the advertiser or his products in the publication in which a display advertisement appears are deemed to be "advertising." If a newspaper or periodical advertises its own services or issues or any other business of the publisher, whether in the form of display advertising or editorial or reading matter, this is deemed to be "advertising."

PART 134

THIRD CLASS

* * * * *

.43 Preparation by the mailer of pieces in packages and sacks.

.431 Package labels.

Pressure sensitive labels are made available to mailers through local customer services representatives and postmasters and must be used to indicate the makeup and destination of all packages that require a package label. All pieces in a package must be faced in one way and the top piece must be plainly addressed, including the ZIP code.

a. *Use of package labels.*

(1) *Five-digit package.* Place 10 or more pieces for the same ZIP code area in a bundle. Use of a package label is optional. When such packages are labeled, affix Red Label D.

* * * * *

b. *Package labels—general.*

Pressure sensitive package labels shall be applied to the lower left corner of the address side of the top piece on letter size packages and next to the address on larger packages. Facing slips shall be placed on the face of mixed states and foreign packages. While the preparation of split state bundles is optional, when such bundles are prepared, they must also be labeled with facing slips. Pressure sensitive labels and facing slips are available at post offices.

.58 Identification.

In order to avoid the appearance of mailings having been made by individuals or commercial enterprises, which are not qualified to mail at the special bulk third-class rates, either the mailing piece must bear the name and return address of the authorized permit holder or the message must contain the name and return address of the authorized permit holder in a prominent location. Pseudonyms or bogus names of persons or organizations may not be used. If the mailing piece bears a name and return address, it must be that of the authorized permit holder. If the mailing piece does not bear a name and return address, the message must contain in a prominent location the name and return address of the authorized permit holder. A well recognized alternative designation or abbreviation such as "The March of Dimes" or the "AFL–CIO" may be used in place of the full name of the organization.

PART 135

FOURTH CLASS

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.252 Minimum quantities.

* * * *

d. Machineable pieces mailed under the level B rate which would otherwise be required to be made up in full three-digit sacks according to 135.252c(2) may instead be made up to the destination bulk mail centers (BMC) provided the following conditions are met:

(1) There must be at least eight pieces or 20 pounds or sufficent volume to fill at least one-third of a standard No. 2 postal sack for three-digit destinations in the mailing.

(2) Sortation and sacking to five-digit destinations must be done according to 135.252c(1).

(3) The mailer must submit a complete ZIP code listing of pieces with the mailing statement. The list must show the five-digit ZIP code destinations and the number of pieces sent to each one for pieces sacked according to 135.252c(1) and the three-digit ZIP code destinations and the number of pieces sent to each of these destinations for pieces sorted to BMC's.

(4) The mailer must note on the mailing statement how many pieces would be required to fill at least one-third of a standard No. 2 postal sack.

(5) A list of BMC's and the areas they serve may be obtained by contacting the postmaster at the office of mailing.

e. A mailing will receive only one level of presort rate, under 135.252a, 135.252b, or 135.252c. A customer may, however, elect to send a product as two or more mailings with separate mailing statements in order to avail himself of the two levels of presort rates.

f. For purposes of the bulk special fourth-class rate schedule the following definitions shall apply:

(1) Full sack shall mean at least eight pieces, or pieces sufficient in cubic volume to fill at least one-third of a standard No. 2 postal sack, or pieces sufficient in weight to equal at least 20 pounds; but not to exceed 70 pounds.

(2) Substantially full sack shall mean a postal sack containing at least four pieces, or either at least 20 or more pounds or pieces sufficient in cubic volume to fill one-third of a standard No. 2 postal sack, but not to exceed 70 pounds.

(3) To qualify as identical pieces subject to this rate schedule, all pieces must be identical in weight. However, the size and content of each piece need not be identical.

.253 Nonqualifying pieces.

Pieces which are not made up to five-digit, three-digit, or BMC destinations as set forth in 135.252 are not considered presorted for purposes of this rate schedule. Pieces which are sacked to three- or five-digit destinations but, when sacked, do not meet the full or substantially full sack criteria do not qualify for the presort rate and must be presented for mailing under a separate mailing statement if mailed under permit imprint.

.259 Presort verification.

For each 50 sacks or fraction thereof in a mailing, accepting post offices shall verify the presort as follows:

* * * * *

c. For mailings made up to BMC destinations, check the mailers statement as to how many pieces are required to fill one-third of a No. 2 sack to confirm that it is reasonable. Scan the listing which accompanies the mailing to ensure that there are at least eight pieces, 20 pounds, or sufficient pieces to fill one-third of a sack, to each three-digit ZIP code destination appearing on the list. Confirm that the total number of pieces appearing on the listing agrees with that shown on the mailing statement. Look at the addresses of several pieces in at least two BMC sacks and verify that they are for three-digit destinations shown on the listing. Reject the mailing if there are any apparent discrepancies in the listing that cannot be resolved.

d. If a mailing is disqualified, the next mailing by the customer at presort rates should have twice the number of sacks verified as specified in a. and b., and such intensified verification shall be extended to one-fifth of the customer's mailings during the following six-month period.

PART 137

OFFICIAL MAIL

* * * * *

.14 Restrictions.

The following restrictions apply to franked mail:

* * * * *

c. A person entitled to use franked mail may not loan his frank or permit its use by any committee, organization, or association; or permit its use by any person for the benefit or use of any committee, organization, or association. This restriction does not apply to any committee composed of Members of Congress.

d. Franked mail must meet the mailability criteria established in 123 and 124.

e. Franked mail is entitled to any special services for which it is properly endorsed.

f. Franked mail is handled as ordinary mail.

g. Franked mail is forwarded like any other mail, but when once delivered to the addressee it may not be remailed. A package of franked pieces may be sent by a person entitled to the franking privilege to one addressee, who, on receiving and opening the package, may on behalf of such person place addresses on the franked articles and mail them.

h. Franked mail must be addressed to the recipient by name, except as provided in 122.442.

.15 Weight and size limits.

.151 Weight.

Franked mail may not exceed 70 pounds.

PART 142

STAMPS (ADHESIVE)

* * * * *

142.2 Purchase of postage.

.21 Acceptable form of payment.

Foreign or mutilated money is not acceptable. When the post office cannot make change, the exact amount of the purchase must be paid. Checks are acceptable for all postal supplies and services, except money orders, provided they conform to the Postal Service check acceptance policy. A charge of $5 will be levied against a customer whose check is returned by the bank as uncollectable. Give written notice to such a customer that the check was returned by the bank as uncollectable and that a $5 charge plus the amount of the returned check must be promptly remitted. To send money by mail, use money order or certified check.

* * * * *

142.3 Replenishment of stock by window clerks.

.31 Frequency of requisitions.

.311 Clerks will requisition stock on the schedule established by the postmaster, or where applicable, by the unit manager. Off-schedule (emergency) requisitions may be made whenever necessary to maintain stock at an adequate level, or to provide for unusual transactions. Most clerks will be scheduled to requisition on a weekly or biweekly basis. (The availability of secure storage equipment is a major factor in the size and frequency of the requisitioning schedule.)

.312 Window clerks should advise supervisors whenever the authorized stock level is either inadequate or excessive with relation to the volume of business.

.32 Stamp funds and size of requisition.

.321 Funds generated through sale of postage, and all other postal funds, except the authorized change portion of the stamp credit, must be remitted daily. (See 142.34 regarding change funds.)

.322 The value of the stamp credit is reduced daily by the postage funds which are remitted. The difference between the authorized stock level and the actual stock level (as shown on form 1412) determines the amount of stock which may be requisitioned.

.323 Adjust the size of the requisition whenever possible to permit ordering stamps in full sheets or packaged lots and postal cards or envelopes in full boxes or packaged lots. (Up to a 5 percent tolerance above the authorized stock level is permitted to accomplish the above.)

.33 How to replenish stock.

.331 Prepare form 17, Stamp Requisition, in duplicate and give (or send) it to the postmaster, unit manager, or person designated to fill stamp requisitions for your unit.

.332 Upon receipt of the stock, if a hand to hand delivery, verify the stock to the Form 17 in the presence of the person who filled the requisition. If not a hand to hand delivery, verify the stock received, with a witness if practicable. Endorse the requisition with the registry number, if any, date of receipt, and signature of both yourself and the witness.

.34 Change portion of stamp credit.

.341 The change of a stamp credit should not exceed 10 percent of the authorized stock level, or $50, whichever is the smaller. Clerks assigned automatic changers, however, may retain an additional $35.

.342 Clerks serving windows which are open during periods when there is no other source of change within the unit may be authorized to increase the $50 limit to:

a. $75 when the window is open in advance of the reporting time of other window clerks.

b. $100 when the window is the only one scheduled to be open, such as on a Saturday.

c. An amount authorized in writing by the postmaster or unit manager to cover unusual conditions of a temporary nature.

.343 The authorized change portion is based on the upper limit established for the stamp credit. Each clerk is responsible for staying within the authorized limit of the change fund. In the event of fire or burglary any claim for loss of cash in excess of the authorized limit may be disallowed.

.344 Other provisions regarding the amount of cash which may be retained are contained in Fiscal Handbook, Series F-1.

142.4 Replenishment of stock by rural and start route carriers.

.41 Replenishment is ordinarily performed by the office at the head of the route. However, if the carrier serves customers who receive mail through other offices on the route, the carrier will replenish the stamp credit at those offices in amounts representing sales to the customers served through such offices.

.42 A rural or star route carrier will replenish the credit once a week by purchasing from an employee who regularly sells postage. Forms 1412 will not be used and form 17 need not be used.

PART 144

POSTAGE METERS AND METER STAMPS

* * * * *

.46 Content.

Meter stamps must show the city and State designation of the licensing post office, meter number and amount of postage for all classes of mail. Upon approval of the licensing post office, meter indicia may contain the name and State designation of its local classified branch, which sets the meter. This authorization does not apply to classified stations or contract stations or branches. As an alternative, the ZIP code designation may be shown in the meter postmark in lieu of the city/State designation. When this occurs, the words Mailed From ZIP Code shall appear in place of the city designation and the mailer's delivery address ZIP code in place of the State. When it is necessary to print multidenomination meter stamps on more than one tape, the circle showing the post office must appear on each tape.

PART 145

PERMIT IMPRINTS

* * * * *

145.2 Preparation of permit imprints.

a. Permit imprints may be made by printing press, handstamp, lithography, mimeograph, multigraph, addressograph, or similar device. They may not be typewritten or hand drawn. The content of the imprint must be in accordance with 145.3, and the format in accordance with 145.4. No other forms of imprints may be used. The imprint must be legible and must be of a color that contrasts sufficiently with the paper to make the imprint readable. The entire imprint must be placed in the upper right corner of the address side of each piece, parallel with the length of the piece.

PART 146

PREPAYMENT AND POSTAGE DUE

* * * * *

.12 Insufficient prepayment.

.121 Mail of any class, including that for which special services are in-

dicated, received at either the office of mailing or office of address without any postage (see 146.41), will be endorsed Returned for Postage and returned to the sender without an attempt at delivery. If no return address is shown, or if the delivery and return address are identical, the piece will be disposed of in accordance with 159.4. (Note that letters, but not post cards, are to be sent to dead mail offices as prescribed in 159.412m.)

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.543 Failure to collect.

The carrier must leave a notice on form 3849-A, Delivery Notice or Receipt, if the deficient postage cannot be collected. Rural carriers who cannot collect without leaving the route must give notice on form 3849-A. Return the mail to the post office for the prescribed retention period pending payment of postage due or directions for disposition.

PART 147

EXCHANGES AND REFUNDS

* * * * *

147.2 Refunds.

.21 Conditions that justify refund.

.211 When postage and special or retail service fees have been paid, and no service is rendered, or when the amount collected was in excess of the lawful rate, a refund may be made:

a. Refunds for postage and fees paid by stamps, permit imprints, or meter impressions, unused meter impressions, and unused units set in meters are handled according to 147.24 through 147.27.

b. Refunds for retail services and fees not paid by means of stamps, permit imprint, or meter impressions are handled according to 147.28.

.212 The Postal Service is considered to be at fault and no service is rendered in cases involving returned articles improperly accepted in both domestic and international services because of excess size or weight.

.213 Mailers who customarily weigh and rate their mail are expected to be familiar with basic requirements and the Postal Service is not considered to be at fault when these mailers are required to withdraw articles from the mail prior to dispatch.

.214 See 147.222 and 147.25 for special provisions for refunding the postage value of unused meter stamps.

.215 A postage refund may be provided the sender for first-class, third-class single piece, and fourth-class mail torn or defaced during processing by the Postal Service to such extent that identification of addressee or intended delivery point cannot be made. This applies only when the failure to process and/or deliver is the fault of the Postal Service. Where possible, the damaged item should be returned with the postage refund endorsed as applicable under 333.264e. Submission of Form 3533, Application and Voucher for Refund of Postage and Fees, is not required.

.216 Requests for refunds which are questionable, or which cannot be processed in accordance with the provisions of this section (147.2) should be forwarded to the postal services center serving the office where the request originated. The postal services center postmaster will return the request along with his ruling to the office which submitted the request.

.22 Amount of refund allowable.

.221 Refund of 100 percent will be made:

a. When the Postal Service is at fault.

b. For the excess when postage or fees have been overpaid the lawful rate.

c. When service to the country of destination has been suspended.

d. When postage is fire-scarred while in the custody of the Postal Service, including fire in letterbox, and the mail is returned to sender without service.

e. When special delivery stamps are erroneously used in payment of postage, and the mail is returned to the sender without service.

f. When fees are paid for special delivery, special handling, and certified mail, and the article fails to receive the special service for which the fee has been paid.

g. When surcharges are erroneously collected on domestic registered mail or collected in excess of the proper amount, or represented by stamps affixed to matter not actually accepted for registration.

h. For fees paid for return receipts or for restricted delivery when the failure to furnish return receipt or its equivalent, or erroneous delivery, or nondelivery, is due to fault or negligence of Postal Service.

i. For annual bulk mailing fee when no bulk mailings of third-class matter are made during the year for which the annual fee has been paid.

j. When customs clearance and delivery fees are erroneously collected.

k. When fees are paid for registry or insurance service on mail addressed to a country to which such services are not available, unless claim for indemnity is made.

l. When express mail is not delivered according to the terms of the service standards as delineated in Handbook M-68, Express Mail Service.

.222 A partial refund shall be made when complete and legible unused meter stamps are submitted within one year from the dates appearing in the stamps. See 147.25. When the face-value of the stamps does not exceed $250, refunds of 90 percent will be made. When the face-value of the stamps exceeds $250, refunds will be made for the face value of the stamps less $10 per hour for the actual man-hours required to process the refund, with a minimum charge of $25 deducted from the amount of the refund. The employee processing the refund will enter the following endorsement on the reverse of Form 3533:

I certify that (number) hours were required to process this refund. The certifying and witnessing employees will both sign this certification.

.223 When mail is returned at the request of the sender or for a reason not the fault of the Postal Service, any difference between the amount paid and the appropriate surface rate chargeable from mailing office to interception point and return will be refunded.

.23 Unallowable refunds.

No refund will be made:

a. For an application fee to use permit imprints.

b. For registered, insured, and COD fees after the mail has been accepted by the post office even though it is later withdrawn from the mailing post office.

c. For loose unused adhesive stamps.

d. For adhesive stamps affixed to unmailed matter.

.24 Application for postage refunds.

.241 Customers who wish to request a refund must submit an application on form 3533 to the postmaster together with the envelope or wrapper, or the portion thereof having names and addresses of sender and addressee, canceled postage and postal markings, or other evidence of payment of the amount of postage and fees for which refund is desired.

.242 Requests for refunds for optional procedure mailings must be submitted to the regional director, finance department, who will forward them to the Director, Office of Mail Classification, for review.

.25 Meters and meter stamps.

.251 Postage adjustments.

The postage value of unused units set in a meter surrendered to the post office to be checked out of service may be refunded or, if desired, an equivalent amount will be transferred to another meter used by the same license holder. If the meter is withdrawn from service because of faulty mechanical operation, a final postage adjustment or refund may be withheld pending report of the meter manufacturer of the cause of faulty operation. If the meter is damaged by fire, a refund or transfer of postage will be made only if the registers are legible, or can be reconstructed by the meter manufacturer.

.252 What to submit.

a. Unused meter stamps that are complete and legible, accompanied by an application on form 3533 within 1

year from dates appearing in the stamps, will be considered for refund. Arrange the stamps so that all of one denomination are together.

b. If portion of stamp is printed on one envelope or card and remaining portion on another, fasten the two together to show that the two portions represent one stamp.

c. Meter stamps printed on labels or tapes which have not been stuck to wrappers or envelopes must be submitted loose.

d. Refunds are allowable for stamps on metered reply envelopes only when it is obvious that an incorrect amount of postage was printed thereon.

e. Submit separately, with statement of facts, envelopes or address portions of wrappers on mail returned to sender from the mailing office marked No such post office in State named, Returned for better address, or Received without contents indicating no effort to deliver was made.

.253 What not to submit.

Do not submit:

a. Meter reply envelopes or cards paid at the proper rate of postage.

b. Meter stamps printed on labels or tape which have been removed from wrappers or envelopes.

c. Meter stamps without the name of the post office and State.

d. Meter stamps without the date printed on tape. (See 144.46.)

e. Meter stamps printed on mail which was dispatched from the mailing post office in regular course and returned to sender as undeliverable, including mail marked No such post office in State named.

f. Meter stamps on mail addressed for local delivery and returned to sender after directory service was given or effort was made to deliver.

.26 Processing refund applications for postage and fees paid by postage stamps, meter impressions, or permit imprints.

.261 At office with 950 or more revenue units.

a. Review the application and supporting papers.

b. If a refund is due, complete the Verification of Refund on form 3533.

c. Pay the applicant in cash from official funds on hand if practicable to do so and the refund is made in person.

d. Have the payee sign the receipt on form 3533.

e. If requested, or if refund is to be mailed, pay by Treasury check, or, if less than $300, by no-fee money order in accordance with 237.233 Fiscal Handbook F-1, Financial and Cost Controls. Record the check or money order number on the receipt portion of form 3533 instead of obtaining the payee's signature. When the amount of the refund is less than $2, a check or money order should not be issued unless the payee or his representative is physically unable to come to the post office.

f. Retain the receipted copy of form 3533 in your files to support the office copy of the statement of account.

g. Destroy envelopes, wrappers, or other evidence submitted with the application, as provided in 147.272a(4).

h. If the application is not approved, return it with the supporting papers and an explanatory statement to the applicant.

i. Enter the amount refunded in AIC 536(D), Postage and Fees Refund, as specified in Handbook F-1.

.262 At other offices.

a. Handle the application in accordance with provisions in 147.261.

b. If no witness is available for signature in part II, form 3533, Verification of Refund, have payee sign in appropriate space.

c. Record the refund as a write-in entry on a blank line in the disbursements section of your cashbook, and show AIC 536(D), Postage and Fees Refund, for the number and title of the account as specified in Handbook F-1.

d. If the amount to be paid is greater than the $300 limit for money orders and the processing post office does not issue Treasury checks, send form 3533 with all supporting papers and a statement certifying the claim to your management sectional center.

e. The management section center shall process the application as specified in 147.261 and pay by Treasury check. If the application is disapproved, return the complete file to the postmaster at the office application with written explanation which shall be furnished the applicant.

.27 Processing refund applications for metered postage.

.271 For meters checked out of service.

a. *At all offices.*

(1) Verify amount by examining meter registers.

(2) Fill out part V, form 3533, if refund is due.

(3) If the manufacturer's meter checkout form has all the required documentation, it may be used in lieu of form 3533.

(4) The amount of refund shall be for the full value of the unused postage.

b. *At offices with 950 or more revenue units.* Handle refund of metered postage in the manner prescribed in 147.261.

c. *At other offices.* Handle refund of metered postage in the manner prescribed in 147.262.

.272 For unused meter stamps.

a. *At offices authorized to have a stamp stock destruction committee.*

(1) Review the application and examine meter stamps submitted.

(2) Handle refund as outlined in 147.261. Provide a partial refund as specified in 147.222.

(3) When the customer requests a receipt and verification cannot be made at time of presentation, funish a receipt on form 3210, Interim Receipt for Stamp Stock Submitted for Redemption, appropriately amended.

(4) The postmaster shall designate an employee other than the certifying and witnessing employees completing part II of form 3533 to destroy the stamps for which an application for refund has been approved. After destruction the employee shall certify part VI of form 3533. The designated employee need not be a member of the Postage Stamp Destruction Committee.

b. *At other offices.*

(1) Verify the amount claimed.

(2) Certify to the correctness of the amount on part II, form 3533, or on a separate sheet attached, if the refund is due.

(3) Handle refunds for unused meter stamps in the manner prescribed in 147.262. Provide a partial refund as specified in 147.222.

(4) Send unused meter stamps with form 3533 when application for refund is sent to the management sectional center for payment.

(5) For refunds paid at your office, send the redeemed meter stamps to your management sectional center for destruction according to the schedule in 224.331, Handbook F-1. Compute minmum values for shipment of meter stamps independently from any other stamp stock. Prepare meter stamps for shipment in the same manner as other stamp stock, but mark the envelopes Metered Postage in lieu of Nonsalable Stock.

(6) Do not prepare a destruction certificate for meter stamps sent to the management sectional center for meter stamp refunds paid at your office. Send the receipted form 3533 and a transmittal memorandum along with the meter stamps. Retain a copy of the transmittal memorandum in your files.

(7) The management sectional center will destroy the meter stamps and certify the destruction on form 3533 in the manner prescribed in 147.272a, except that he will not make or account for any refund. After the destruction has been certified, the completed form 3533 will be returned to the originating postmaster who will keep it with other supporting documents.

.273 Evidence of unused meter stamps at office of meter setting.

In lieu of submitting bulky evidence of unused meter stamps, postmasters at the office of meter setting may certify the amount and destruction of these stamps in part VI of form 3533 and forward the application to the post office where the meter is licensed.

.274 Computing fractions of a cent.

In computing the amount to be refunded for unused meter stamps, re-

solve a fraction of a cent in favor of the Postal Service. For example, if 90 percent of the postage value of impression is $4.187, the amount refunded is $4.18.

.28 Processing refund applications for retail services.

.281 Customer request.

Application for refund of fees collected for retail services will be initiated on form 3532, Refund of Fees for Retail Services, by the customer.

.282 Postal service approval.

An authorized employee will review the application and supporting papers. If refund is due, complete approval portion of form 3532 and have it witnessed. Return form 3532 to the customer for submission to the window services section for payment.

.283 Issuance of refund.

a. The window services employee who makes a cash refund will have the payee sign the receipt portion of form 3532.

b. If requested, or refund is to be mailed, pay by Treasury check, or, if less than $300, by no-fee money order. Record the check or money order number on the receipt portion of form 3532 instead of obtaining the payee's signature. When the amount of the refund is less than $2, a check or money order should not be issued unless the payee or his representative is physically unable to come to the post office.

.284 Accounting for refund.

a. Enter the amount refunded in AIC535(D), Refund of Fees—Retail Services.

b. Retain the receipted copy of form 3532 to support the office copy of the statement of account.

.285 Refund not approved.

If the application is not approved, return it with the supporting papers and an explanatory statement to the applicant.

PART 154

CONDITIONS OF DELIVERY

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.63 Registered mail addressed to persons at hotels and apartment houses will be delivered to the persons designated by the management of the hotel or apartment house in a written agreement with the Postal Service. Form 3801-A, Agreement by a Hotel, Apartment House or the Like, MUST be executed for this purpose. If delivery of the registered mail has been restricted by the sender, it may not be delivered to the representative of the hotel or apartment house unless the addressee has specifically authorized this person in writing to receive his restricted delivery mail. The authorization may be made on form 3849-A, Delivery Notice or Receipt; form 3849-B, Delivery Reminder or Receipt; form 3801, Standing Delivery Order;, or by a letter to the postmaster.

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.91 Units not operating military post offices.

Mail addressed to the Commanding General, Commander, Commanding Officer, staff sections and other officials by title, and personnel of military organizations, will be delivered to unit mail clerks or mail orderlies when such individuals have been designated on DD Form 285, Appointment of Unit Mail Clerk or Mail Orderly to receipt for all mail addressed to the unit for which he is designated. If the unit mail clerk or mail orderly has been designated on DD Form 285 to receipt for ordinary mail only, then registered, numbered insured, certified, and restricted delivery mail addressed to individuals by name may be delivered to the unit mail clerk or mail orderly only if authorized by the addressee in a letter to the post office, on form 3849-A, Delivery Notice or Receipt; form 3849-B, Delivery Reminder or Receipt; or form 3801, Standing Delivery Order.

PART 155

CITY DELIVERY

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.42 Keys to customer private mail receptacle.

City delivery carriers are prohibited from accepting keys for locks on private mail receptacles, buildings or offices, except as provided in A-1-3 of Publication 17, Apartment House Mail Receptacles, Regulations and Manufacturing Standards. If city delivery customers place locks on their receptacles, the receptacle must have a slot large enough to accommodate their normal daily mail volume so that delivery is made by the carrier without using a key.

PART 156

RURAL SERVICE

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.33 parcel delivery.

When an ordinary parcel too large to be delivered into the customer's box is received, the carrier will leave a notice on form 3849-A, Delivery Notice or Receipt, in the box requesting the customer to indicate the date on which he will meet the carrier to receive the parcel. If the addressee has filed a written order that the Postal Service and carriers are relieved of all responsibility in case of loss or depredation when large parcels are placed outside boxes, the carrier will deliver large parcels outside the box. If a customer lives within hailing distance of a route, the carrier will make a reasonable effort to hail the customer so he may come to the box to receive the parcel before it is left outside the box.

PART 158

FORWARDING MAIL

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.122 Forwarding.

Do not change the name of the addressee or sender. Cross off the name of your office, add the new address and ZIP code number, mark the piece Forwarded, postmark it, and dispatch under the original number. If a return receipt is attached to the article, forward it also. Show the particulars of forwarding on form 3849-A or 3849-B and file the form, or make entry in form 3850 showing this information.

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.221 Records of permanent change of address orders, other than those subject to 158.23 are held one year for forwarding purposes from the end of the month in which the change becomes effective. Exception: Address changes to a post office box at the same post office, as indicated on form 1093, Application for Post Office Box or Caller Number, shall be honored indefinitely. The order is not renewable. Mail may continue to be forwarded beyond the 1-year period if the new address is known to the forwarding employee.

PART 159

UNDELIVERABLE MAIL

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.272 Returning registered, numbered insured, and certified mail.

Prepare the record on both sides of form 3849-B, Delivery Reminder or Receipt, or show disposition on form 3850, Record of Delivered Registered, Number Insured, Certified, and COD Mail, if form 3850 is used as the delivery record. File 3849-B. If a return receipt is attached, indicate the reason for non-delivery on the return receipt, initial the card, postmark the card, and return the article to the mailer with the return receipt attatched. Return registered mail through the registered mail system.

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.287 Rightful owner not known.

If in doubt as to the rightful owner of the proceeds, request instructions from the Office of Mail Classification, Rates and Classification Department. If not possible to deliver the net proceeds to the rightful owner, hold the funds for 30 days. If unclaimed at the expiration of that period, account for the amount as Miscellaneous Nonpostal AIC 126.

.412 Disposition.

Mail undeliverable after examination under 159.411 is disposed of as follows:

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n. Coins should be stripped from undeliverable circulars and their value should be accounted for as Miscellaneous Revenue, AIC 126.

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.42 Money found loose in the mail.

Dispose of money found loose in the mail as follows:

a. United States money found loose in the mail, unless identified with losses from mail or returned to its owner, must be promptly turned over to a supervisor. Amounts turned over must be recorded on form 25, and the entry must be receipted by both the supervisor and the finder by initialing the entry. Funds may be retained by the supervisor until $1 or more has accumulated but should be remitted at least weekly. Funds remitted must be taken into AIC 126.

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d. If a valid claim is received for money found loose in the mail after it has been taken into the postal account, make refund from current funds and take credit in AIC 624.

.721 Disposition.

At the end of retention periods specified in 159.3, mail is declared dead. Dead mail described in 159.412 a, b, c, d, e, and f is disposed of locally. First-class letters, first-class parcels, and other articles that have obvious value are forwarded on fixed schedules to dead letter or dead parcel post branches for final disposition. Dispose of as follows:

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c. *Insured and COD matter.* Hold dead insured and COD mail for 6 months after it becomes dead. Then send it to your dead parcel post branch weekly. Hold dead mail having salvage value, and dead mail necessary as evidence for pending claims until disposal instructions are received from the St. Louis Postal Data Center, which adjudicates the claim. Insured and COD matter endorsed by the sender Destroy or Abandon is destroyed or abandoned when it becomes undeliverable at the last office of address. When the sender of undeliverable insured or COD mail refuses to accept it, give him written notice that the parcel will be treated as dead mail if not claimed and postage-due paid in 10 days. If parcel is not claimed, send it to the dead parcel branch on the next weekly dispatch. If parcel was insured, endorse form 3849-B to show refusal by the sender; if COD, endorse the tag.

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.724 Dead letter and dead parcel post branches.

a. Send forms 1510 inquiring for letters valued at more than $1 and for first-class parcels to dead mail branches.

b. *Dead letter branches.*

(1) *Locations:* Atlanta, GA 30304; Boston, MA 02109; Chicago, IL 60607; Cincinnati, OH 45234; Dallas, TX 75221; Memphis, TN 38101; Minneapolis, MN 55401; New York, NY 10001; Philadelphia, PA 19104; St. Louis, MO 63155; San Francisco, CA 94101; San Juan, PR 00902; Washington, DC 20013; and Wichita, KS 67202.

(2) *Dead letter service areas:*

State or territory	Dead letter branch
Alabama	Memphis, TN 38101.
Alaska	San Francisco, CA 94101.
Arizona	San Francisco, CA 94101.
Arkansas	St. Louis, MO 63155.
California	San Francisco, CA 94101.
Colorado	San Francisco, CA 94101.
Connecticut	Boston, MA 02109.
Delaware	Philadelphia, PA 19104.
District of Columbia.	Washington, DC 20013.
Florida	Atlanta, GA 30304.
Georgia	Atlanta, GA 30304.
Guam	San Francisco, CA 94101.
Hawaii	San Francisco, CA 94101.
Idaho	San Francisco, CA 94101.
Illinois	Chicago, IL 60607.
Indiana	Cincinnati, OH 45234.
Iowa	St. Louis, MO 63155.
Kansas	Wichita, KS 67202.
Kentucky	Cincinnati, OH 45234.
Louisiana	Dallas,TX 75221.
Maine	Boston, MA 02109.
Maryland	Washington, DC 20013.
Massachusetts	Boston, MA 02109.
Michigan (Lower Peninsula).	Chicago, IL 60607.
Michigan (Northern Peninsula).	Minneapolis, MN 55401.
Minnesota	Minneapolis, MN 55401.
Mississippi	Memphis, TN 38101.
Missouri	St. Louis, MO 63155.
Montana	San Francisco, CA 94101.
Nebraska	Wichita, KS 67202.
Nevada	San Francisco, CA 94101.
New Hampshire	Boston, MA 02109.
New Jersey	Philadelphia, PA 19104.
New Mexico	San Francisco, CA 94101.
New York	New York, NY 10001.
North Carolina	Atlanta, GA 30304.
North Dakota	Minneapolis, MN 55401.
Ohio	Cincinnati, OH 45234.
Oklahoma	Wichita, KS 67202.
Oregon	San Francisco, CA 94101.
Pennsylvania	Philadelphia, PA 19104.
Puerto Rico	San Juan, PR 00902.
Rhode Island	Boston, MA 02109.
Samoa	San Francisco, CA 94101.
South Carolina	Atlanta, GA 30304.
South Dakota	Minneapolis, MN 55401.
Tennessee	Memphis, TN 38101.
Texas	Dallas, TX 75221.
Utah	San Francisco, CA 94101.
Vermont	Boston, MA 02109.
Virginia	Washington, DC 20013
Virgin Islands	San Juan, PR 00902.
Washington	San Francisco, CA 94101.
West Virginia	Washington, DC 20013.
Wisconsin	Minneapolis, MN 55401.
Wyoming	San Francisco, CA 94101.

c. *Dead Parcel Branches.*

(1) *Policy.* Dead Parcel Branches are established at selected post offices to serve post offices and bulk mail centers in a designated area. There will normally be one dead parcel branch in each BMC (bulk mail center) service area, but a dead parcel branch may serve more than one BMC service area as warranted by volume. The bulk mail center and all post offices in a BMC service area send dead parcels to their assigned dead parcel branch. If a post office is re-assigned to another bulk mail service area, its dead parcel branch assignment will also be changed.

(2) *Dead parcel service areas.*

SERVICE AREAS

Bulk mail centers	Dead parcel branch
Atlanta	Atlanta, GA 30304.
Chicago	Chicago, IL 60607.
Cincinnati	Cincinnati, OH 45234.
Dallas	Fort Worth, TX 76101.
Denver	Denver, CO 80202.
Des Moines	St. Paul, MN 55101.
Detroit	Detroit, MI 48233.
Greensboro	Greensboro, NC 27420.
Jacksonville	Jacksonville, FL 32201.
Kansas City	St. Louis, MO 63155.
Los Angeles	Bell, CA 90201.[1]
Memphis	Memphis, TN 38101.
New York	New York, NY 10001.
Philadelphia	Philadelphia, PA 19104.
Pittsburgh	Pittsburgh, PA 15219.
St. Louis	St. Louis, MO 63155.
St. Paul	St. Paul, MN 55101.
San Francisco	San Francisco, CA 94101.
Seattle	Seattle, WA 98109.
Springfield	Boston, MA 02109.
Washington	Washington, DC 20013.

[1] Postmasters in the Los Angeles Bulk Mail Center service area should use this address for sending dead parcels to the dead parcel branch. Any correspondence should be directed to the Postmaster, Los Angeles, CA 90052.

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.78 Reports.

Letters received at a dead letter branch must be treated promptly. Maintain a record on form 4911, Dead Letter Record. Make the count of dead letters received by the measurement or weight process. For Total Hours Used, record the total clerical hours used, the paid absences of the employees, the proportionate hours devoted to this work by supervisory employees, and the proportionate paid absences of such supervisory employees. Complete form 4913, Quarterly Report of Dead Letters, from the information on forms 4911. Submit at the end of each quarter to the Office of Mail Classification, Rates and Classification Department, Washington, DC 20260. Forms 4911 and 4913 are available only from the Office of Mail Classification and may be ordered by memorandum.

PART 161

REGISTERED MAIL

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.32 Sealing.

The sender must securely seal envelopes. Self-sealing envelopes are not acceptable. Do not place paper or cellulose strips or wax or paper seals over the intersections of flaps of letter size envelopes where the postmark impressions are made. Wrap and seal packages with mucilage or glue or with plain paper or cloth tape. Packages containing currency or securities may not be sealed exclusively by use of paper strips, but must first be sealed securely with mucilage or glue. Large envelopes (flats) which are completely sealed and which also have paper strips or paper tape across the intersections of the flaps may be considered packages so far as the sealing requirements are concerned. Tape that will not adhere in such a manner as to damage the envelope or wrapper if removed, or tape which will not absorb a postmark impression, may not be used on registered mail.

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.41 Procedure.

The responsibility of the Postal Service for registered mail ends with its proper delivery. Mail for delivery by carriers is taken on the first trip after it is received unless the addressee has requested the postmaster to hold his mail at the post office. The addressee or person representing him may obtain the name and address of the sender, and may look at registered mail while it is held by the postal employee, before accepting delivery and signing the delivery receipt. Identification will be required if the applicant for registered mail is unknown. The mail will not be given to the addressee until the delivery receipt is obtained by the postal employee. The signature of the person receiving the article must appear in the appropriate block on the delivery receipt. If the signature on the delivery receipt is not legible, the delivering employee must print the name of the recipient on the receipt in an area which will not interfere with other signatures.

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.52 Preparing for dispatch.

.521 Rotary lock pouches.

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e. The rotary registry lock(s) for the rotary lock pouch dispatches are obtained from the designated rotary lock storage area located within the registry cage, and if no cage has been established, from the registry section (note 371 and 582.2).

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.76 Delivery.

.761 Window delivery.

Promptly notify the addressee on form 3849-A of the arrival of registered mail. Send the notice through the regular channels of the addressee's ordinary mail. If the mail is not called for within 5 days, issue another notice on Form 3849-B as a final notice. Endorse registered article to show dates of notices. When window delivery is made of articles bearing requests for return receipts showing address where delivered, endorse the return receipts Delivered at post office or Delivered at station. Use the following delivery receipts:

a. Forms 3849-A and 3849-B may be used at any office. Enter the registration number and the office of origin. Note (OS) officially sealed, (AO) addressee only, or such other required notations on form. Show delivering employee's signature and date of delivery.

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.763 Carrier and messenger delivery.

Following instructions apply to delivery of registered mail by carriers and special-delivery messengers:

a. Assign to carriers and special-delivery messengers as follows:

(1) List individual articles on form 3867 at post offices with 190 or more revenue units. One form 3867 may be used for all carriers if volume of registered mail and number of carriers permit. Show the registration number and office (or country) of origin for each article assigned for delivery. Abbreviate offices and countries of origin. Prepare and attach to registered article a form 3849-A or 3849-B as appropriate, only when endorsed to show the special service requested, when return receipt is requested showing address were delivered or when the mail is marked for restricted delivery. Show on form 3867 or 3850 symbols to indicate return receipt, restricted delivery, bad condition, official sealed, etc. Obtain signature of the carrier on form 3867.

(2) List in triplicate three or more articles for delivery to the same addressee on firm delivery bill, form 3883. Deliver the articles to the carrier or messenger with the original and one copy of the bill. Obtain his receipt on the third copy, holding it as a charge-out record.

(3) Use form 3850 at post offices with 189 or less revenue units as the chargeout record.

b. Carriers and messengers must:

(1) Carry delivery receipts, form 3849-A or 3849-B, and enter the registration number and ZIP code of the office of origin on it before making delivery. (See 161.763a.)

(2) Comply with endorsement which restricts delivery, except as provided in 165.341.

(3) Get signature for delivery on form 3849-A or 3849-B, and on return receipt if requested by the sender. If delivery is made to addressee's agent, addressee's name must be entered on form 3849-A (and form 3811 if requested) followed by the signature of the person actually accepting delivery. Examine each return receipt for completion and make any necessary corrections at that time. Sign and date form. Obtain signature of the addressee on form 3849-A as well as on the COD tag, for registered COD mail delivery.

(4) Enter registration number, ZIP code of the office of origin, and name of addressee on form 3849-A and leave the form as a notice of arrival if unable to deliver registered article. If registered COD mail is involved, use form 3849-A. Check both the Registered and COD blocks. Attach the tab from form 3849-A to the article and endorse the tab to show date notice was left. Return article to office or carrier delivery unit pending advice from addressee that delivery can be made. Carrier may again take the mail out for delivery without request from the addressee if he has reason to believe that delivery can be made.

(5) Obtain delivery receipt on the original form 3883 for quantity (average of three or more) deliveries to the same addressee. Deliver copy of the bill with the mail. Obtain return receipts if requested.

(6) Enter date of delivery on delivery receipt and return receipt. Enter on return receipt address where article was delivered if this service was requested by the sender.

(7) Turn in delivery receipts, return receipts, and any undelivered articles to clearing clerk at the post office.

(8) Prepare and submit form 3868, Carrier's Clearance Receipt, to be signed and returned by the clearing clerk. These receipts are the carriers' personal records.

c. Clear carriers and messengers in the following manner:

(1) Have carriers and messengers account for all registers charged to them, either by delivery receipts or returned articles. If any article is not accounted for, make immediate report to the supervisor. Endorse charge-out record when clearing is complete.

(2) Sign and give back to carriers and messengers form 3868 which they prepare and submit when accounting for registered mail assigned to them for delivery.

(3) If registered articles returned undelivered by carriers or messengers are forwarded or returned, show disposition on form 3867 or form 3850 and prepare record on form 3849-B including name of addressee. File the form 3849-B with delivery receipts.

(4) Examine all return receipts. Make sure that they are properly signed and that the date of delivery has been entered. If the mail was restricted in delivery, check to see that delivery was not made to an unauthor-

ized agent. If delivery was improper, have addressee sign another return receipt card and destroy the original after the addressee's signature has been obtained on the duplicate. Postmark all return receipts legibly, and mail no later than the next working day.

(5) Take prompt corrective action with delivering employees if return receipts or delivery receipts have not been obtained or have been improperly completed.

d. If the mail is not delivered in 5 days, issue a second and final notice to the addressee on forms 3849-A marked Final Notice. Send it through regular channels of the addressee's ordinary mail.

.764 Filing delivery receipts.

File receipted form 3849-A and 3849-B in the consolidated file, with those for certified and numbered insured mail, by the last two digits of the registration numbers. In large offices, forms 3849-A and 3849-B for registered mail may be filed in registry sections. If quantity accumulated over the filing period is less than 200 use last digit only for breaking file. File firm delivery bills, forms 3883, alphabetically by name of firms or by date of delivery.

161.9 Special instructions.

.91 Offices with 950 or more revenue units.

.911 Registry section.

a. *Transfer from opening unit.* Transfer mail to other units as follows:

(1) *City or local delivery.* Backstamp these articles. Postmark envelopes once over intersection of the flaps. Send registered mail to carrier cage and get a receipt on forms 3852, 3853, or 3854. Show the registration numbers of all articles. No receipt is required if there is no separate cage.

(2) *Transit pouches and jackets.* Send to the outgoing or dispatch cage. Get a receipt on the incoming bill if there is a separate cage. Use a separate form or back of incoming bill if you have a large number of pouches and jackets.

(3) *Transit and station articles.* Transfer to the dispatch unit to be included in outgoing dispatches.

(4) *Valuable mail.* See 161.932. Place in vault or safe for safekeeping awaiting delivery or dispatch. If it will be delivered or dispatched in a short time, place it in a pouch or jacket promptly. This mail must be receipted for by signing opposite each valuable article listed on the incoming bill. You may bracket all valuable articles and sign only once.

b. *Transfer from acceptance or delivery windows.* Transfer mail to other units without receipt except when:

(1) Valuable mail is transferred from acceptance window. See 161.932. Get receipt on office record form 3806 or firm mailing bill.

(2) Separate dis and city cages are operated. Get receipt for articles of ordinary value to be forwarded or returned. Use forms 3852, 3853, or 3854.

(3) Acceptance or delivery window is in a separate cage. Get receipt. Use forms 3852, 3853, or 3854.

(4) Registered articles are sent to dead letter section. Window clerk must get receipt on form 3849-B.

c. *Record of employees.* Keep a record of employees working in the registry section each day. Use form 1625, Record of Entry-Registry Section or Distribution Units. Keep a separate record of employees detailed to that section. Employees in charge of, or working in the valuable cage or vault, must record time of entering and leaving the valuable cage or vault. Use form 1625.

.912 Stations and branches.

a. *Mail received from main office.* Check articles received in pouches. Report to supervisor of the station or branch and supervisor in charge of main registry section any shortage or surplus. Endorse bill and coupon to show discrepancies. Mail coupons signed by both supervisor and opening clerk showing discrepancies to the official in charge of main registry section. Separate registered articles for desk delivery and for carrier delivery.

b. *Mail dispatched to main office.* Bill as instructed in 161.52.

.92 Articles intended for registration found in the ordinary mail.

.921 Register articles marked for registration found in ordinary mail which are not endorsed Not in the Registered Mail if postage and fees have been fully prepaid. Endorse article Found in ordinary mail. Mail registration receipt and form 3892, Registered Mail Found in Ordinary Mail, to sender. Show on post office registration record when and by whom the article was removed from ordinary mail. Endorse articles not fully prepaid Not in the Registered Mail and dispatch as ordinary mail.

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PART 162

INSURED MAIL

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.62 Numbered packages.

Postal employees will take signed receipts for the delivery of numbered packages on the following forms:

a. Form 3849-A or 3849-B, when delivery is made by carrier, and window delivery at post offices with 190 or more revenue units.

b. Form 3850, form 3849-A or 3849-B, for window deliveries made at post offices with 189 or fewer revenue units.

c. Form 3883, when addressees regularly receive an average of three or more packages at one time.

d. Also, form 3811, Return Receipt, Registered, Insured and Certified Mail, when this service is requested by the sender.

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.72 Filing of delivery records.

File delivery records as follows:

a. File receipted form 3849-A and 3849-B in the consolidated file, with those for registered and certified mail, by the last two digits of the insurance number. If quantity accumulated over the filing period is less than 200, use last digit only for breaking file. When the number is not entirely legible, file the receipt alphabetically by the name of the addressee. File form 3883, Firm Delivery Book—Registered, Certified, and Numbered Insured Mail, alphabetically by the name of the addressee or by the date of delivery.

b. Delivery receipts for numbered insured packages returned to senders may be kept separately from delivery receipts covering packages delivered to addressees.

.73 Check of Records.

To make sure that delivering employees are obtaining the required delivery receipts and that receipts are properly filed, offices having carrier delivery service should:

a. Make a selective check at least quarterly, including a check of firm delivery bills. Use form 3871, Receipt Verification—Insured and Returned COD Mail.

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PART 163

COD MAIL

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163.5 Handling at office of address.

.51 Delivery.

.511 At offices with carrier delivery.

Deliver COD mail as follows:

a. Send carrier delivery mail on the first trip after receipt, and offer it to the addressee or some person who can receive it for him.

b. Have addressee or his authorized representative sign the COD tag. The delivery employee must sign and fill in the spaces on the back of the tag. Do not use either form 3849-A or form 3849-B as a receipt for ordinary COD mail (See 163.511d). The tag for such COD mail is used for this purpose. (See 163.84 for registered COD mail.)

c. If the addresseee declines acceptance and the mailer specifically requests a form 3849-D, it will be sent immediately.

d. If delivery is not made on the first attempt for any reason, complete a delivery notice on form 3849-A, Delivery Notice or Receipt, remove the stub, leave the notice at the address, affix the stub to the article, and return the article to the post office. Schedule a

second attempt to deliver on a date requested by addressee or, if mail is not called for in 5 days, send a second notice on form 3849-B, Delivery Reminder or Receipt. If the mailer specifically requests a form 3849-D, the form will be sent 5 days after leaving the first form 3849-A.

e. Hold packages addressed to members of military organizations at military installations at the main office, station, or branch. Send a notice to the addressee to call for his mail on form 3849-A. Do not deliver the mail to anyone except the addressee unless he so requests in writing.

* * * * *

.73 Offices with 189 or fewer revenue units.

.731 Recording and postmarking.

Postmark tags to show date of receipt and record packages promptly on form 3850, Record of Delivered Registered, Numbered Insured, Certified, and COD Mail.

* * * * *

.84 Handling at office of address.

Handle as follows:

a. Include the mail with other registered mail, and handle in accordance with the methods prescribed for handling other registered mail. Obtain addressee's receipt on form 3849-A or 3849-B as well as on the COD tag.

b. Keep an office record of the data required to be kept of unregistered COD mail. Furnish carries completed form 3821, in duplicate, marked Registered.

c. Instructions in 163.51, concerning number of attempts at delivery, and in 163.43, concerning notification to sender, apply to registered COD mail, except that form 3849-A, with both the Registered and COD blocks checks, shall be used as a notice of arrival for registered COD mail.

* * * * *

PART 164

INDEMNITY CLAIMS

* * * * *

.54 Action by postmaster.

Upon receipt of a form 1510-A from the accepting postmaster, postmasters at the office of address will within 5 days:

a. Check delivery record, form 3849-A, Delivery Notice or Receipt, form 3849-B, Delivery Reminder or Receipt, or form 3883, Firm Delivery Book, to ascertain whether or not the article was delivered. When c.o.d. claims are received, search the tag file; if not record is found, search the file of form 3814 at main office or station or branch involved.

* * * * *

PART 165

CERTIFICATES OF MAILING, RETURN RECEIPTS, AND RESTRICTED DELIVERY

* * * * *

.242 Request for duplicate or return receipt after mailing, form 3811-A.

a. Records of delivery shall be checked and the date of delivery and name of the individual who signed for the article shall be placed on form 3811-A.

b. If a signed receipt is not found for certified mail, send the addressee form 1572, Inquiry About Receipt of Mail. If the reply indicates that the addressee has received the certified mail, file completed form 1572 with forms 3849-A or 3849-B as a receipt. The delivery information contained on form 1572 shall be used to complete form 3811-A. If the addressee does not return completed form 1572 within 14 days, form 3811-A shall be completed to show no record of delivery and returned to the mailer.

* * * * *

.34 Procedures at office of delivery.

.341 Mail marked Restricted Delivery will be delivered only to the addressee or to the person he specifically authorizes in writing to receive his restricted delivery mail:

a. Addressees who regularly receive restricted delivery mail may authorize an agent by use of form 3801, Standing Delivery Order, or by a letter to the postmaster. These authorizations are for post office records. The notation This authorization is extended to include Restricted Delivery Mail must be made by the addressee on the part of the form 3801 provided for signatures of authorized agents.

b. Form 3849-A, Delivery Notice or Receipt, may be left for this authorization if the post office has no standing delivery order or letter on file. On the back of the form the addressee may enter the name of the person designated in the Deliver Article To block and sign and date the authorization. The agent must sign for receipt of the article on the front of the form in the normal manner.

* * * * *

.343 Restricted delivery mail addressed to the commander, staff sections or other officials of military organizations by name and title may be delivered to the unit mail clerk, mail orderly, postal clerk, assistant postal clerk, or postal finance clerk, when such individuals have been designated on DD Form 285 to receipt for all mail addressed to the units for which they are designated. If the mail clerk, etc., has been designated on DD Form 285 to receipt for ordinary mail only, then restricted delivery mail addressed to the commander, etc., by name and title may be delivered to the mail clerk, etc., only if authorized by the addressee in a letter to the post office, on form 3849-A or 3849-B, or form 3801.

* * * * *

PART 166

SPECIAL DELIVERY

* * * * *

.42 Delivery in mail receptacles.

When no one is at the address to receive mail, the messenger, if he can determine that the occupants are absent for not more than 1 day, will leave the mail and a notice on form 3849-A, Delivery Notice or Receipt.

.43 Notice of attempted delivery.

When mail cannot be delivered as described in 166.42, the form 3849-A left under the door, between the door and doorjamp, or in the receptacle, will state where the special delivery mail is being held.

.44 Rural and star route carriers.

If delivery is attempted and cannot be made to a customer's residence or place of business, the special delivery matter is deposited in his box and a notice of nondelivery on form 3849-A is left at his residence or place of business.

* * * * *

PART 168

CERTIFIED MAIL

* * * * *

.55 Notice of arrival.

The carrier will leave a notice of arrival on form 3849 if he cannot deliver the certified article for any reason. The article will be brought back to the post office and held for the addressee. If the article is not called for within 5 days, a second notice on form 3849-B will be issued. If the article is not called for or its redelivery requested, it will be returned at the expiration of the period stated by the sender, or after 15 days if not period is stated

.56 Delivery at post office.

Hold certified mail at a place convenient for the public to call if addressed for box or general delivery or for firm callers, or if a form 3849-A or 3849-B had been left for addressee to call. Place form 3849-A or 3849-B in post office box for lockbox customers. Form 3883 will be used where firm or other customers receive an average of three or more certified letters at one delivery.

* * * * *

.61 Assignment.

Send certified mail, including that for firms, to a unit or employee desig-

nated to assign it for delivery. Assign as follows:

a. *Individual pieces.* At offices with 190 or more revenue units, show on form 3867, Registered and Certified, the total number of pieces given to each carrier. The carrier will receipt in bulk on form 3867 for articles restricted in delivery of those for which returned receipts showing delivery address have been requested, and attach form 3849-A or 3849-B stamped to show the special service requested. Use form 3850 at post offices with 189 or less revenue units as the charge-out record. Receipt will be given in bulk by carrier on form 3850.

.65 Filing delivery receipts.

File individual delivery receipts, form 3849-A or 3849-B, by the last two digits of the certified mail number in the consolidated delivery receipt file unless quantity accumulated over the filing period is less than 200, in which case use last digit only for breaking file. File firm delivery receipts, form 3883, by the name of the addressee or chronologically by date.

* * * * *

PART 169

POST OFFICE LOCKBOX AND CALLER SERVICE

* * * * *

.825 Service of notice.

The Notice of Intent to Close a Post Office Box (or terminate caller service) may be served on the boxholder or caller by certified mail, with restricted delivery, addressed to his post office box or other address. Obtain a return receipt therefor, and forward immediately to the General Counsel. If restricted delivery cannot be made, deposit the notice in the box or in the receptacle provided for the caller for delivery as ordinary mail and this shall constitute valid service. Complete a post office delivery receipt, form 3849-B, Delivery Reminder or Receipt, and send to the General Counsel. Endorse both the form 3849-B and the return receipt for the certified mail to show that restricted delivery could not be made and that the notice was delivered as ordinary mail. An order of the Judicial Officer closing a post office box or terminating caller service or affirming the refusal to grant an original or renewal application for such box or caller service shall bar the granting of any similar application wherever made, by or on behalf of the person involved, until such order has been revoked, amended or modified by the Judicial Officer.

* * * * *

PART 171

MONEY ORDERS

* * * * *

.217 Countries where service is available on domestic basis.[1]

Country	Address
Antigua	Administrator St. Johns, Antigua
Bahamas	Postmaster Nassau, Bahamas
Barbados	Postmaster General Bridgetown, Barbados
Belize	Postmaster General Belize City, Belize
British Virgin Islands.	Administrator Tortola, British Virgin Islands
Canada (see 171.214a).	Deputy Postmaster General Financial Branch Money Order Division Ottawa ON Canada K1A 0B1
Canal Zone	Director of Posts Balboa Heights, Canal Zone
Dominica	Colonial Postmaster Dominica, West Indies
Grenada	Colonial Postmaster Grenada, West Indies
Montserrat	Administrator Montserrat, West Indies
St. Kitts-Nevis-Anguilla.	Administrator St. Kitts-Nevis-Anguilla, West Indies
St. Lucia	Postmaster General St. Lucia, West Indies
St. Vincent	Colonial Postmaster St. Vincent, West Indies
Trinidad and Tobago.	Postmaster General Port of Spain, Trinidad, West Indies

* * * * *

PART 172

NONPOSTAL STAMPS AND BONDS

* * * * *

172.3 United States Savings Bonds.

The Postal Service discontinued over-the-counter sales of Savings Bonds on March 26, 1977, at the request of the Treasury Department. In the judgment of the Treasury Department, the sale of Savings Bonds at post offices is unnecessary because a sufficient number of other issuing agents are available. Customer inquiries should be referred to local financial institutions or the Treasury Department for further information.

[FR Doc. 78-15689 Filed 6-8-78; 8:45 am]

[1] See sections 171.213 and 171.42c.

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[909-8; PP 7E1933/R152]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Methomyl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide methomyl on Bermuda grass and grass hay. The amendment to the regulations was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of methomyl on Bermuda grass and Bermuda grass hay.

EFFECTIVE DATE: Effective on June 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C., 202-755-2516.

SUPPLEMENTARY INFORMATION: On March 27, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 12725) in response to a pesticide petition (PP 7E1933) submitted to the Agency by Dr. C. C. Compton, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of North Carolina. This petition proposed that 40 CFR 180.253 be amended by the establishment of a tolerance for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodities Bermuda grass at 10 parts per million (ppm) and Bermuda grass hay (dried and dehydrated) at 40 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.253 should be adopted with-

out change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before July 10, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington D.C. 20460. Such objections should specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on June 9, 1978, Part 180, Subpart C, § 180.253 is revised in its entirety by editorially reformatting the section into an alphabetized columnar listing and alphabetically inserting tolerances for Bermuda grass and Bermuda grass hay as set forth below.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(e)).)

Part 180, Subpart C, § 180.253 is amended by alphabetically inserting in the table the tolerances of 10 ppm in or on Bermuda grass and 40 ppm in or on dried and dehydrated Bermuda grass hay to read as follows:

§ 180.253 Methomyl; tolerances for residues.

* * * * *

Commodity:	*Parts per million*
* * * * *	
Grass, Bermuda	10
Grass, Bermuda, hay (dried and dehydrated)	40
* * * * *	

Dated: June 5, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-15971 Filed 6-8-78; 8:45 pm]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-367]

AMATEUR RADIO SERVICE

Administration of Operator Examinations

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The FCC is amending its amateur radio rules to permit the engineers in charge of its various field offices to issue Amateur Code Credit Certificates. Upon presentation of a properly completed certificate, an applicant for an amateur operator license will be given examination credit for the telegraphy speed shown on the certificate. The FCC is acting in response to many complaints that it has no such examination credit program and expects that the issuance of Amateur Code Credit Certificates will relieve both applicants and the FCC of unnecessary work and effort.

EFFECTIVE DATE: June 16, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory M. Jones, Personal Radio Division, Safety and Special Radio Services Bureau, 202-634-6619 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Adopted: May 31, 1978.

Released: June 7, 1978.

Order. In the matter of amendment of the FCC's rules concerning the administration of operator examinations in the amateur radio service.

1. The Commission is amending its rules concerning the administration of operator examinations in the amateur radio service.

BACKGROUND

2. Under existing examination procedure, an applicant for an FCC-supervised amateur radio operator license must appear at an FCC field office or designated examining point for examination. Depending on the class of operator license for which the applicant is applying, he must successfully complete certain examination "elements", in accordance with the following schedule (see § 97.23 of the Commission's rules):

Class of Operator License and Required Examination Elements

Amateur Extra—1(C) (20 word per minute telegraphy test); 2 (basic amateur operation); 3 (general amateur practice); 4(A) (intermediate amateur practice); 4(B) (advanced amateur practice).
Advanced—1(B) (13 word per minute telegraphy test), 2, 3, and 4(A).
General—1(B), 2, and 3.
Technician—1(A) (5 word per minute telegraphy test), 2, and 3.
Novice (not administered at FCC field offices)-1(A) and 2.

3. Section 97.25(a) of the rules states that a licensed amateur operator applying for a higher class operator license will be given examination credit for the examination elements included in the examination for the class of operator license he already holds. For example, an applicant for the general class operator license who holds a technician class license at the time of his examination will be given examination credit for examination elements 2 and 3 and need only successfully complete examination element 1(B) to obtain the general class license.

THE PROBLEM

4. It has come to our attention that many amateur licensees are not entirely satisfied with the present rule concerning examination credit in the amateur service. In particular, we have been receiving many informal requests to amend the rules to extend examination credit to an applicant for each examination element he passes, regardless of whether the applicant goes on to complete the entire examination successfully. For example, if an applicant for a general class operator license who holds no amateur license at the time of his general class examination were to pass examination element 1(B) (13 word per minute code test) but fail examination element 3 (general amateur practice), he would be given examination credit for element 1(B) upon reexamination. He would not be required to retake the 13 word per minute telegraphy test, because he would have passed it once already under FCC supervision.

THE SOLUTION

5. We believe there to be no reason to continue to require that an applicant for an amateur operator license retake examination elements he has already completed successfully, and we are by this order amending parts 0, 1, and 97 of the FCC's rules to permit the issuance of Amateur Code Credit Certificates (FCC Form 845) by the engineers in charge of the various FCC field offices. Amateur Code Credit Certificates will be issued to applicants for amateur operator licenses who pass telegraphy examination elements 1(A), 1(B), or 1(C) but who fail the written examination elements associated with the telegraphy examinations. Upon presentation of a properly completed Amateur Code Credit Certificate, an applicant for an amateur operator license will be given credit for the code speed listed on the amateur Code Credit Certificate. Thus, an unlicensed applicant for a general class license who passes examination element 1(B) but who fails examination element 3 will, upon reexamination, be given credit for examination element 1(B). To obtain the general class license the applicant would have to complete only elements 2 and 3. An Amateur Code Credit Certificate will be valid for a period of 1 year from the date of its issuance and must be presented at the field office at which the examination was undertaken.

6. We believe the amendments we are adopting will make it simpler and

less tedious for applicants for amateur operator licenses to obtain such licenses. We also believe our service to applicants for amateur operator licenses will improve, because we will not have to administer what are essentially unnecessary telegraphy examinations. (A reduction in the number of examinations we administer is critical, in view of the extremely large number of applicants now seeking to become amateur radio operators.)

CONCLUSION

7. Authority for these amendments appears in sections 4(i), 5(d), and 303 of the Communications Act of 1934, as amended. Because the manner in which amateur radio examinations are conducted is a matter of internal agency procedure, the prior notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable.

8. Accordingly, the Commission orders that parts 0, 1, and 97 of its rules are amended as set forth below effective June 16, 1978.

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

FEDERAL COMMUNICATIONS COMMISSION,[1]
WILLIAM J. TRICARICO,
Secretary.

Parts 0, 1, and 97 of Chapter I of Title 47 of the Code of Federal Regulations are amended, as follows:

PART 0—COMMISSION ORGANIZATION

1. In § 0.314, a new paragraph, (w), is added, as follows:

§ 0.314 Additional authority delegated.

* * * * *

(w) To issue Amateur Code Credit Certificates, under the provisions of Part 97 of this chapter.

PART 1—PRACTICE AND PROCEDURE

2. In § 1.922 a new form, FCC Form 845, is added, as follows:

§ 1.922 Forms to be used.

FCC Form and Title
* * * * *
845—Amateur Code Credit Certificate.
* * * * *

PART 97—AMATEUR RADIO SERVICE

3. In § 97.25, paragraphs (b), (c), and (d) are redesignated paragraphs (c), (d), and (e), respectively, and a new paragraph (b) is added, as follows:

§ 97.25 Examination credit.

* * * * *

(b) Upon presentation of a properly completed Amateur Code Credit Certificate, FCC Form 845, the FCC shall give the applicant for an amateur radio operator license examination credit for the code speed listed on the Amateur Code Credit Certificate. An Amateur Code Credit Certificate is valid for a period of 1 year from the date of its issuance and will be honored only at the FCC field office that issued the Amateur Code Credit Certificate.

* * * * *

[FR Doc. 78-16027 Filed 6-8-78; 8:45 am]

[6712-01]

[Docket No. 20746; FCC 78-365]

PART 15—RADIO FREQUENCY DEVICES[1]

Extension of Receiver Certification Program To Revise the Technical Specifications for Receivers, and To Make Other Changes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document interprets the definition of a CB receiver contained in § 15.59(a) of the FCC rules, as promulgated in docket 20746. Amateur receivers containing an 11 meter position which were manufactured prior to January 1, 1960, have been removed from the definition of a CB receiver and are, therefore, no longer subject to the January 1, 1978, marketing ban specified in that section.

EFFECTIVE DATE: June 16, 1978.

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

FOR FURTHER INFORMATION CONTACT:

John A. Reed, Office of Chief Engineer, 202-632-7093.

SUPPLEMENTARY INFORMATION:

Adopted: May 31, 1978.

Released: June 7, 1978.

Order. In the matter of revision of Part 15 to extend the receiver certification program, to revise the technical specifications for receivers, and to make other changes, Docket No. 20746.

1. A first report and order in this proceeding was adopted on July 27, 1976, and released on August 4, 1976 (41 FR 32590; 60 FCC 2d 687; 41 FR 47442, October 29, 1976). That report added § 15.59 to our Part 15 rules which established technical standards and imposed a requirement for certification of CB receivers. For the purpose of this regulation, a CB receiver was defined; the definition encompassed the following, among others:

* * * The CB band of a multiband receiver in which such band can be separately selected and is labeled "CB band" or "11-meter band".

In addition, § 15.59 specified August 1, 1977, as the cut-off date for manufacture, and January 1, 1978, as the cut-off date for marketing of non-certificated CB receivers.[2]

2. The decision to establish a January 1, 1978, cut-off date for marketing has been reviewed three times by the Commission in response to petitions for waiver or extension of the date. The first review occurred in an order of August 24, 1977, in which the marketing cut-off date was extended to August 1, 1978, for certain hand-held CB radios. The second review occurred in our order of November 9, 1977, which denied a general waiver or extension of the January 1, 1978, marketing cut-off date. The third review occurred in an order of January 10, 1978, which authorized an extension of marketing until August 1, 1978, for designated CB converters manufactured by Tanner Electronic Systems Technology, Inc.[3]

3. On December 1, 1977, a suit was filed with the U.S. Court of Appeals for the D.C. Circuit by Arthur Fulmer, Inc., and the National Association of Retail Dealers of America (NARDA) questioning the Commission's refusal to extend the marketing cut-off date (Case No. 77-2064). The court announced its decision on December 16, 1977, affirming the Commission's ability to do so.[4]

4. The Commission is still of the opinion that the January 1, 1978, mar-

[1] Commissioners Ferris, Chairman; and Brown absent.

[1] *In the Matter of petitions to extend the sales cut-off date for certain CB radios.* Order adopted August 24, 1977, extended the sales cut-off date for hand held CB radios (as defined in paragraph 12 of the order) and denied an extension of sales cut-off for all other (23-channel) CB radios, FCC 77-586; 66 FCC 2d 139.

[2] *In the Matter of petitions to extend the January 1, 1978, sales cut-off date for 23-channel CB radios and CB rec coverters.* Order adopted November 9, 1977, denied the petitions, FCC 77-768; 66 FCC 2d ——.

[3] *In the Matter of petition of Tanner Electronic Systems Technology, Inc., for waiver of § 15.59(g) of the Commission's Rules.* Order adopted January 10, 1977, grants extension of marketing to August 1, 1978. FCC 78-18. Originally denied by the Commission's order of November 9, 1978 (footnote 2 above), Tanner requested reconsideration and the petition was granted in the light of the Court's judgment (see ¶3) that Tanner could petition for reconsideration on grounds of special circumstances.

[4] *Arthur Fulmer Inc., et al.* v. *FCC,* U.S. Court of Appeals, D.C. Cir. No. 77-2064, December 16, 1977.

keting cut-off date for non-certificated CB receivers, as defined in § 15.59(a), is justified. No waivers of this marketing requirement have been issued; and none are contemplated.

5. A question has arisen as to the interpretation or classification of an amateur radio receiver which includes an 11-meter band (presently 26.96-27.41 MNz, formerly 26.96-27.23 MHz) as a CB receiver under the definition in § 15.59(a). Prior to 1958, the 11-meter band had been allocated to the Amateur Radio Service. Accordingly, it was perfectly natural that receivers manufactured when that allocation was in effect should include the 11-meter band. On September 11, 1958, the allocation of this band to the Amateur Radio Service was deleted and effective September 1, 1958, the band was reallocated to the Citizens Radio Service for use by Class D stations (now the CB Radio Service.) The Commission understands that a number of pre-1960 amateur radio receivers with an 11-meter band are still in use by licensed amateurs and that sale or trading in these receivers among amateurs is fairly common. Although, the 11-meter band was no longer an amateur band, the novelty of CB radio and amateur interest in it led manufacturers to continue building amateur radio receivers with an 11-meter band until 1960.

6. To the best of our knowledge, these pre-1960 amateur receivers have never contributed to the interference situation caused by the CB receivers that were marketed prior to January 1, 1978, and which led to our order of July 27, 1976 (see ¶1 above). It was never our intention to impose the stringent technical specifications of § 15.59 on these pre-1960 amateur receivers nor to require that these receivers be certificated as a prerequisite for marketing. However, the definition in § 15.59(a) inadvertently classifies every receiver with an 11-meter band as a CB receiver; and because of the all inclusive language of § 15.59 and of § 2.803, these pre-1960 amateur receivers may not be marketed after January 1, 1978.

7. It is the purpose of this order to interpret § 15.59(a) and to remove these pre-1960 amateur radio receivers from the category of CB receivers as defined in § 15.59(a) and in this way to permit these pre-1960 amateur radio receivers to be freely traded and sold. As we have pointed out, these receivers as a class have never been a source of harmful interference and the marketing restriction that was inadvertently imposed is not justified.

8. Accordingly, § 15.59(a) is interpreted and amended to provide an exemption for pre-1960 amateur radio receivers that include an 11-meter band. As amended, § 15.59(a) reads as follows:

§ 15.59 Interference requirement for a CB receiver.

(a) For the purpose of this regulation, a CB receiver is defined as any receiver that operates in the Personal Radio Services on frequencies allocated for CB stations, as well as any receiver provided with a separate band specifically designed to receive the transmissions of CB stations in the Personal Radio Services. The term CB receiver includes the following:

(1) A CB receiver sold as a separate piece of equipment.

(2) The receiver section of a CB transceiver.

(3) A converter to be used with any receiver for the purpose of receiving CB transmissions.

(4) A multiband receiver that includes a band labeled "CB" or "11-meter" in which such band can be separately selected, except that an Amateur Radio receiver that was manufactured prior to January 1, 1960, and which includes an 11-meter band shall not be considered to be a CB receiver.

* * * * *

9. It should be noted that this exemption will not only to any amateur equipment which contains a CB or an 11-meter band and was manufactured after January 1, 1960. Such equipment manufactured after January 1, 1960, will continue to be classified as a CB receiver and marketing of such equipment after January 1, 1978, is prohibited unless such equipment has been granted certification by the Commission.

10. In summary, the Commission finds that it is in the public interest to interpret and amend § 15.59(a) of its rules to allow the sale, trade, etc., of receivers of the type described above even though they are not certificated. Language reflecting this interpretation is contained in the amendment to § 15.59(a) which is noted above in ¶6. Because the amendment ordered herein is interpretative in nature, the prior notice, public procedures, and effective date provisions of 5 U.S.C. 553 (Administrative Procedure and Judicial Review) are found to be not applicable.

11. Authority for the rule amendment adopted in this order is contained in sections 4(i), 302, and 303(f) of the Communications Act of 1934, as amended.

12. Accordingly, *It is ordered*, That Part 15 of the Commission's rules and regulations is amended, effective June 16, 1978, as set forth in ¶8 of this order.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, sec. 302, 82 Stat., 290 (47 U.S.C. 154, 302, 303).)

FEDERAL COMMUNICATIONS COMMISSION,[5]

WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-16026 Filed 6-8-78; 8:45 am]

[5] Commissioners Ferris, Chairman; and Brown absent.

[6712-01]

[Docket No. 19995; RM-2275; FCC 78-331]

PART 76—CABLE TELEVISION SERVICES

Network Program Exclusivity Protection by Cable Television Systems

AGENCY: Federal Communications Commission.

ACTION: Effective date of recent rule change postponed.

SUMMARY: The Commission recently amended its cable television rules regarding deletion of network programs on some local television signals. A number of parties have asked that the Commission change its decision. The Commission voted to postpone the effective date of the rule change until it acts on those requests.

EFFECTIVE DATE: Postponed to June 10, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Tom Hendrickson, Cable Television Bureau, 202-632-6468.

SUPPLEMENTARY INFORMATION:

Adopted: May 18, 1978.

Released: May 30, 1978.

In the matter of amendment of subpart F of Part 76 of the Commission's rules and regulations with respect to Network Program Exclusivity Protection by Cable Television Systems, Petitions for Stay, Docket No. 19995, RM-2275 [43 FR 22212].

1. In its "Memorandum Opinion and Order in Docket 19995," FCC 78-217, FCC 2d (1978) the Commission amended § 76.92 of its rules effective May 24, 1978. The new rule provides that the network nonduplication rules do not require deletion of programs on television stations which are "significantly viewed" in the cable community. The decision was a reversal on reconsideration of the "Third Report and Order in Docket 19995," FCC 76-1076, 62 FCC 2d 99 (1976), 43 FR 22212, May 24, 1978.

2. Five separate motions were filed asking that the effective day of the rule be stayed. Four of the motions were filed by two or more parties jointly. One was filed by Amaturo Group, Inc.; KCST, Inc., McGraw-Hill Broadcasting Co., Inc., and NEP Communications, Inc. Another was by Spartan Radiocasting Co., Post-News-

week Stations Florida, Inc., and Post-Newsweek Stations Connecticut, Inc. Another was by Henson Aviation, Inc. and Central Coast Broadcasters, Inc. Nine UHF television station licensees filed jointly.[1] Bibb Television, Inc. filed in a separate motion.

3. Comments opposing the motions were filed by the National Cable Television Association and Scripps-Howard Broadcasting Co. A joint comment supporting the stay was filed by Key Television, Inc.; Wyneco Communications, Inc.; Great Lakes Communications, Inc.; and D. H. Overmyer Telecasting Co. Separate comments supporting the motions were filed by Gill Industries, National Association of Broadcasters and National UHF Broadcasting Association.

4. Petitioners ask for several alternative types of stay. They are:

(a) Stay the effective date until the Commission rules on the petitions for reconsideration. (One reconsideration petition has already been filed. Several parties have indicated they will file.)

(b) If the Commission does not grant a stay pending reconsideration, it should grant a stay until a judicial stay can be requested and acted on.

(c) Grant a stay pending completion of judicial review. (A petition for review has already been filed with the 4th Circuit Court of Appeals by Spartan Radiocasting, Post-Newsweek Stations Florida and Post-Newsweek Stations Connecticut.)[2]

(d) If no general stay is granted, grant an automatic stay in individual cases where a petition for special relief is filed, until action on that petition.

5. The parties generally agree that the Commission should examine four elements in deciding whether a stay should be granted.[3]

(a) What are the chances that petitioner will prevail on the merits either on reconsideration by the Commission or on review by the courts?

(b) Has petitioner shown that without a stay, it would be irreparably injured?

(c) Would issuance of a stay substantially harm other parties in the proceeding?

(d) Is a stay in the public interest?

6. *Likelihood of success of the merits.* Those arguing for a stay feel the decision will be reversed either by the Commision or the courts. They state that notice that the action was under consideration was inadequate under both the Administrative Procedures Act and the Commission's own rules. Furthermore, it is urged that the Commission granted more relief than requested in the petition for reconsideration. They believe this is prohibited under section 405 of the Communications Act of 1934, as amended. One of the comments argued that the Commission failed to dispose of the issues raised on reconsideration and thus violated § 1.429(i) of its rules.

7. Aside from the procedural grounds, supporters of the motions state that the decision was arbitrary and capricious. They argue first that the Commission did not fully appreciate the consequences of the decision. Examples are cited where television stations will lose some or all of the network nonduplication protection they now receive. Petitioners state that UHF stations and small market VHF's are especially hard hit. They believe the Commission failed to consider the economic impact of the rule change on television stations. Seondly, it is urged that the rule is based on a false assumption that "significantly viewed" stations are "local" stations.

8. Commenters opposing the motions for stay believe that there is little likelihood of success either on reconsideration or before the courts. They assert the public was properly put and kept on notice that the issue was under consideration during every stage of the proceeding. NCTA points out that its comments to the petition for reconsideration reiterated a proposal going much farther than the rule finally adopted. NCTA attacks the examples given of impacted stations as conclusory and factually imcomplete. As for the alleged false assumption, the opposing comments argue that movants are wrong; that the Commission is correct in viewing this issue as one of local stations versus local stations instead of local versus distant. Finally, NCTA urges that the rule is not arbitrary since special relief can be granted in cases where need is proven. It argues tht the change is merely a shifting of the burden.

9. *Irreparable injury.* Movants and their supporters state that the rule change will undoubtly mean a loss in audience to affected stations. This, they say, translates to lost revenue which leads to loss of service to the local community and in some cases may be even loss of a station. Again numerous examples are cited of potential audience loss. They assert that it may take several years for Commission and judicial review, with the losses piled up during that time. It is pointed out that the May 24, 1978 effective date falls in the May 3-30 Arbitron audience sweep and the May 4-31 Nielsen sweep. Even if the ratings do not pick up the change, advertisers are said to be aware of it.

10. Opposing comments charge that the losses are speculative, that mere monetary loss is not grounds for a stay and that, at any rate, the damage can be averted where there is actual need through the special relief process. NCTA argues that there in no loss anyway since the decision merely restores the over-the-air situation.

11. *Harm to other parties.* Movants argue that no one else is really hurt by a stay. Cable systems already have the equipment and procedures on hand, and the cost of maintaining protection is minimal. They say the television stations that will no longer be deleted are mostly large market VHF's who do not need the additional viewers. Finally, the cable subscribers are not harmed. Since the cable operator can put the priority station's signal on the otherwise blank channel, the only thing different to the subscriber is local advertisements and channel identifications.

12. Scripps-Howard on the other hand says there would be injury to the significantly viewed station which finally is getting the full carriage it deserves. Furthermore, the cable systems would be harmed because the burden of proof for waivers would shift back to them. NCTA adds that there are definite costs in that "purchase and maintenance of switching equipment, labor costs to check program logs and set up switches, as well as subscriber loss due to program deletions all work a profound negative impact on cable operators."

13. *The public interest.* Movants urge that the real issue here is the threatened loss of local service due to economic impact. They balance this against the fact that the public loses no programming through continued protection. Thus it is urged that the public risks much and gains nothing if the new rule is put into effect. Opposing comments point to documented subscriber dissatisfaction and urge that noncable viewers are not affected either way.

14. *Discussion.* The test traditionally applied to stay requests of this type are found in *Virginia Petroleum Jobbers Association* v. *FPC*, 259 F. 2d 921 (D.C. Cir. 1958) and *Washington Metropolitan Area Transit Commission* v. *Holiday Tours, Inc.*, 559 F. 2d 891 (D.C. Cir. 1977). Under the earlier case, theoretically all four of the tests should be met by the moving party. The latter case involves a somewhat less stringent balancing of the probability of success on the merits versus the balance of hardships.

15. With respect to likelihood of success on the merits, it is clear that substantial policy issues will be raised in

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[1]The nine licensees are Birmingham Television Corp., Forward of Illinois, Inc., Forward Television, Inc., Plains Television Corp., Plains-New Haven, Inc., Roy H. Park Broadcasting of Utica-Rome, Inc., Studio Broadcasting System, Division of Highwood Service, Inc., Summit Radio Corp., and Winnebago Television Corp.

[2]These parties indicated they would apply for a judicial stay if the Commission did not act on their petition for stay by May 5, 1978.

[3]There is some disagreement on how many elements must be satisfied and on the standard to be used in the first category.

connection with the reconsideration requests. The legal (Administrative Procedure Act) arguments, are, we believe, somewhat less compelling.

16. With respect to the "irreparable injury" and harm to other parties tests, it is apparent that some stations losing protection by the change in the rules will be injured and that no mechanism exists for making such stations whole if the rules are again changed. Cable subscribers, cable system operators, and stations whose signals are deleted will also be injured, although subscribers presumably will not lose any programming and cable systems already complying with the rules will not need to purchase new equipment. The significance of the losses to stations gaining carriage or losing protection will vary depending on their market configuration, number of cable systems in the area, length of time during which carriage or protection is lost, and the speed with which audience rating services and advertisers are able to take into account the changed situation. Termination of nonduplication protection for a period of several months would generally not appear to have a great impact, although inclusion of Arbitron and Nielsen rating periods within that time could tend to increase it.

17. The fourth criteria, the public interest, allows for some consideration of the impact of a stay decision on the more general public as contrasted with the more immediately interested parties and includes our interest in administrative efficiency and economy.

18. In considering the four factors we do not believe an across-the-board stay has been justified. As we see it, petitioners ask that a rule of nationwide application be stayed because some television stations may be adversely affected. Contrary to assertions in the pleadings, the Commission was well aware of the implications of the rule change. Our decision, however, is basically a shifting of the burden. Instead of protecting all stations out of concern for a minority, the new rule will result in such protection only where the need for it is demonstrated.

19. Looked at from this perspective, it seems appropriate and an exercise of orderly administration that protection now being afforded not be discontinued in those cases where there is a possibility that continued protection will be sought and granted. We do not believe a more general stay should be granted. We have decided to adopt an automatic stay procedure whereby any station which believes it has a good case for waiver can get continued portection until the Commission acts on its petition.[4] We recognize that some stations which cannot justify waiver will get this interim protection. Further, we realize that there is some cost to significantly viewed stations, cable operators, and cable subscribers. But there considerations are outweighed by out concern that there be no injury in the cases where waiver will eventually be granted.

20. It is our intention to maintain the status quo by granting an automatic stay of the effect of § 76.92(g) of the rules to any television station which, by June 10, 1978, submits to the Commission and serves upon the relevant cable system(s) a notice that special relief will be sought on this matter. Television stations filing such notices shall submit to the Commission, no later than sixty (60) days[5] after the filing of the notice, a petition for special relief stating fully and precisely all pertinent facts and considerations relied on to demonstrate the need for relief and to support a determination that a grant of such relief would serve the public interest. All interested parties may submit comments or oppositions to the petition within thirty (30) days after it has been filed and petitioner may file a reply to the comments or oppositions within twenty (20) days after their submission. All pleadings shall conform to the special relief requirements of § 76.7 of the Commission's rules, with the exception that one consolidated petition may be filed on behalf of a television broadcast station seeking special relief vis-a-vis its continued nonduplication protection on two or more cable television systems. Until the Commission rules on such a petition, the subject cable television system(s) shall continue to afford the petitioning broadcast station nonduplication protection against significantly viewed signals.

21. In order to accommodate this procedure, it will be necessary to delay the overall effective date of the rule from May 24, 1978 to June 10, 1978. It seems unwise to allow the rule to change back and forth over a 2 or 3 week period depending on whether a notice is filed.

Accordingly, it is ordered, That the motions for stay described above are granted in part and denied in part as indicated above.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-16028 Filed 6-8-78; 8:45 am]

[4] We have used basically this same procedure before with good results. See "Second Report and Order in Docket 19995," FCC 75-820, 54 FCC 2d 229 (1975).

[5] We are allowing this period of time for stations to assemble specific data and prepare the showing required in each petition. Extensions of time are not contemplated.

[6712-01]

[CT Docket No. 78-51; FCC 78-374]

PART 78—CABLE TELEVISION RELAY SERVICE

Permitting Continuous Operation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Commission amended §§ 78.11(h), 78.53(a)(2) and 78.55 of the rules to permit continuous operation of microwave stations licensed in the Cable Television Relay Service (CARS). Improved performance of a microwave station and better equipment reliability and stability are achieved by continuous operation and CARS will now be permitted the same use as that accorded other microwave services regulated by the Commission.

EFFECTIVE DATE: July 14, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Jeffrey Chebegia or Clifford Paul, Microwave Branch, Special Relief and Microwave Division, Cable Television Bureau, 202-254-3420.

SUPPLEMENTARY INFORMATION:

Adopted: May 31, 1978.

Released: June 7, 1978.

REPORT AND ORDER—PROCEEDING TERMINATED

In the matter of: amendment of Part 78 of the Commission's rules and regulations to permit continuous operation in the Cable Television Relay Service, CT Docket No. 78-51.

1. On February 8, 1978, by its "Notice of Proposed Rulemaking in CT Docket No. 78-51," FCC 78-86, —— FCC 2d —— (1978), the Commission proposed an amendment to Part 78 of the Commission's rules and regulations to permit continuous operation in the Cable Television Relay Service (CARS) 43 FR 7334, February 22, 1978. Continuous operation occurs when a station transmits 24 hours per day, even if information is not always being relayed. Our present rules permit operation only when information is available for transmission. The change was proposed in order to achieve improved reliability and stability of the microwave equipment.

2. Continuous operation has been allowed for microwave stations in the Common Carrier and Safety and Special Radio Services for a number of years. On December 8, 1977, the Commission adopted the "Report and Order in Docket No. 20539," FCC 77-836, —— FCC 2d —— (1977). As part of that proceeding, subpart F of part 74

of the rules was amended to allow continuous operation of stations in the Television Auxiliary Broadcast Service. Therein we cited the improved reliability and frequency stability of present day microwave equipment and the contribution to component failure introduced by intermittent operation of the transmitting equipment. We also noted that the Safety and Special and Common Carrier Services permit continuous operation, that the equipment is similar, and in many cases identical, to that used in such services, and found that present Television Auxiliary Broadcast requirements with respect to non-continuous operation were no longer warranted. In view of the considerations described above, the fact that the Cable Television Relay Service shares the 12.70–12.95 GHz portion of the spectrum with the Television Auxiliary Broadcast Service, and the similarity of function, equipment and operation of CARS and that of the microwave services noted above, we proposed the instant amendment to achieve equivalent reliability and stability standards for CARS microwave operation, consistent with uniform Commission treatment of the various microwave services.

3. Comments were received from six parties: A-R Telecommunications Division of Adams-Russell (A-R); the National Cable Television Association (NCTA); twenty-seven (27) cable television companies jointly (JOINT); Rockwell International Corp. (Rockwell), a major manufacturer of microwave equipment; the New York State Cable Television Association (NYSCTA); and the American Broadcasting Cos., Inc. (ABC). A-R, NCTA, JOINT, Rockwell and NYSCTA fully support the proposed amendment and urge its adoption. While ABC does not oppose the subject proposal, it suggests that action "should be held in abeyance until all parties have the opportunity to address the more fundamental and related issues raised in Docket 21505."[1] ABC contends that the two proceedings are related in broad terms and that "Docket 21505", *supra*, raises questions affecting the future development of services in the Television Auxiliary Broadcast Service, in particular the Electronic News Gathering (ENG) service, that warrant withholding action herein pending receipt of comments in, and conclusion of, the broader proceeding.

4. In support of the instant proposal, NCTA, JOINT and Rockwell point out that (1) experience has shown that continuous operation does not appreciably affect spectrum management or conservation; (2) licensees and manufacturers report that better reliability and stability of the microwave equipment is achieved by continuously operated equipment; (3) the CARS service is the only microwave service regulated by the Commission that is restricted to non-continuous use; (4) as found in "Docket No. 20539", *supra*, the potential for harmful interference to other facilities arising from continuous operation of microwave stations is minimal; and (5) the considerations found persuasive by the Commission relative to "Docket No. 20539", *supra*, with respect to the continuous operation of Television Auxiliary Broadcast stations, are equally applicable to the operation of CARS microwave equipment. A-R notes that continuous operation will permit the elimination of extra switching devices and reduce the number of equipment outages. Finally, NYSCTA cites the enhanced diversity and variety of programming that would be available to the cable subscriber as a result of continuous microwave operation. NYSCTA points out that in areas such as metropolitan New York, where CARS band facilities are integrated to a point where limited "networking" of locally-originated programming among various systems is possible, continuous operation of CARS facilities would provide increased potential for offering a wider variety of programming, unavailable by any other means, to integrated cable communities on a regional basis.

5. In rely to ABC's suggestion that action herein should be withheld pending disposition of "Docket No. 21505", *supra*, Teleprompter Corp. (Teleprompter) charges that ABC "merely points out the possible prematurity of this proceeding, but does not oppose the merits of the proposal." Teleprompter further indicates that a lack of opposition to the subject proposal is not surprising, in view of the years of experience in other services in which continuous operation has been shown to be technologically desirable for a variety of reasons, and that such operation causes no adverse consequences.

6. We concur with those parties which have offered comments in support of the instant proposal. We believe that the factors which have been set forth in this proceeding in support of permitting continuous operation by CARS microwave stations clearly demonstrate that present restrictions concerning such operation are no longer warranted. Considerations of spectrum management which previously formed the underlying basis for withholding such authority have proven to be inconsequential, particularly in view of the fact that other similar Commission—regulated microwave services have long since permitted such operation and that like provisions recently adopted in the Television Auxiliary Broadcast Service reflect factors equally applicable to CARS. Moreover, we recognize that, unless good cause can be shown otherwise, communications services which by their nature exhibit identical or similar characteristics, as in the instant case, should be regulated in a uniform manner to the extent that they share common features. Technological and operational benefits that are deemed appropriate to one such service should likewise be made available to another where the circumstances suggest a single standard. In the instant proceeding, the foregoing information presented in support of the proposed amendment clearly justifies its adoption and we are unaware of any persuasive reasons that would warrant retention of existing restrictions that prevent continuous operation of CARS microwave stations.

7. With respect to ABC's contention that no action should be taken in this proceeding until such time as related matters are resolved in pending "Docket No. 21505", *supra*, we do not agree. Apart from its bare assertion that the two proceedings are related and its general reference to the potential impact upon television auxiliary broadcast services, such as ENG, ABC does not offer any specific explanation that suggests an inconsistency between the proposals that would require consolidated consideration of the proceedings, or that otherwise reasonably supports its claim. Under consideration here is a question that relates solely to the use of the present CARS band by a CARS microwave station—a use previously authorized for Television Auxiliary Broadcast stations sharing that band—irrespective of what provisions may be adopted concerning the expansion of the CARS band and its shared use by the Cable Television Relay and Television Auxiliary Broadcast Services. We believe that whatever measures may be deemed appropriate as a result of that proceeding are more suited to examination therein and are sufficiently distinct from the matter at hand to permit the disposition of this proceeding.

8. In view of the foregoing, the Commission is persuaded that the present restrictions against continuous operation by a CARS microwave station are no longer warranted. These stations will now be permitted to operate continuously and the rules are amended accordingly as shown below. However, the rules are also amended to indicate that radiation of the carrier without modulation may not cause harmful interference to other authorized stations.

[1] ABC adverts to the pending "Notice of Proposed Rulemaking and Notice of Inquiry in Docket 21505", FCC 77-856, —— FCC 2d —— (1977), which, among other things, proposes expansion of the CARS band from 12.7-12.95 GHz to 12.7-13.20 GHz and inquires as to the merits of establishing like technical standards for both the CARS and Television Auxiliary Broadcast Services in the 12.7-13.20 GHz band.

9. Authority for the adoption of the amendments herein is contained in section 4 (i) and (j), and section 303 (b), (g), and (r) of the Communications Act of 1934, as amended. For the reasons stated above, we are of the view that amendment of the rules as formulated herein would serve the public interest.

Accordingly, it is ordered, That part 78 of the Commission's rules and regulations is amended, effective July 14, 1978, in accordance below.

It is further ordered, That this proceeding is terminated.

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

FEDERAL COMMUNICATIONS COMMISSION,[2]
WILLIAM J. TRICARICO,
Secretary.

Part 78 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 78.11, paragraph (h) is deleted and reserved to read as follows:

§ 78.11 Permissible service.

* * * * *

(h) [Reserved]

* * * * *

2. In § 78.53(a), subparagraph (2) is deleted and reserved to read as follows:

§ 78.53 Unattended operation.

(a) * * *
(1) * * *
(2) [Reserved]

* * * * *

3. Section 78.55 is amended to read as follows:

§ 78.55 Time of operation.

A CARS station is not expected to adhere to any prescribed schedule of operation. Continous radiation of the carrier without modulation is permitted provided harmful interference is not caused to other authorized stations.

[FR Doc. 78-16031 Filed 6-8-78; 8:45 am]

[2]Commissioners Ferris, Chairman; and Brown absent.

[6712-01]

[Docket No. 20509; FCC 78-366]

PART 89—PUBLIC SAFETY RADIO SERVICES

Providing for the use of frequencies 530, 1606, and 1612 kHz by stations in the Local Government Radio Services for the transmission of certain kinds of information to the traveling public

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order.

SUMMARY: On June 20, 1977, the FCC released a Report and Order in Docket 20509 which amends Parts 2 and 89 of its Rules establishing a new class of local government radio station called "Travelers Information Stations." The National Association of Broadcasters (NAB), the Mississippi Broadcasters Association (MBA), and the Department of Transportation and Attorney General's Office of the State of Iowa (Iowa) each filed a Petition for Reconsideration of the Report and Order. These petitions are being denied in this action because the facts presented or the issues raised are either beyond the scope of the decision reached in this proceeding, or were already considered by the Commission in reaching its decision.

EFFECTIVE DATE: July 24, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Melvin Murray, Spectrum Allocation Division, Office of Chief, 202-632-6350.

SUPPLEMENTARY INFORMATION:

Adopted: May 31, 1978.

Released: June 9, 1978.

MEMORANDUM OPINION AND ORDER

In the matter of amendment of Parts 2 and 89 of the rules to provide for the use of frequencies 530, 1606, and 1612 kHz by stations in the Local Government Radio Services for the transmission of certain kinds of information to the traveling public, Docket No. 20509.

1. On June 10, 1977, the Commission adopted a Report and Order in Docket 20509 amending Parts 2 and 89 of the rules to establish a new class of station, Travelers Information Station, for transmitting certain kinds of information to the traveling public. It was published in the FEDERAL REGISTER on June 22, 1977 (FCC 77-414; 42 FR 31594), 43 FR 10697, March 15, 1978.

2. The following parties filed Petitions for Reconsideration of the Commission's action: National Association of Broadcasters (NAB) on July 22, 1977, Mississippi Broadcasters Association (MBA) on July 22, 1977, and the Department of Transportation and Office of Attorney General of the State of Iowa on July 20, 1977. [1]An Opposition to NAB and MBA's petitions for Reconsideration was filed by LocRad, Inc. on August 19, 1977. Comments supporting Iowa's Petition in toto were filed by Halstead Communications, Inc. (Halstead) on August 19, 1977.

3. In its Petition, NAB sets forth several arguments it claims the Commission overlooked prior to releasing its Report and Order. It contends the technical rules regarding transmitter operation are inadequate. Moreover, it adds, the Commission has further "deviated from its long standing policy requiring that transmitting equipment be manufactured to certain specifications (type-approved or type-accepted) and that while in operation such equipment remain within stipulated parameters (tolerance)." A lack of adequate monitoring provisions, it continues, "raises doubts as to whether the primary broadcast service can meaningfully protected from inadvertent interference."

4. Mistakenly, NAB has failed to recognize that all transmitters operating in the Local Government Radio Service are subject to type acceptance requirements, pursuant to § 89.119 of the Commission's rules. Measurement procedures to be used in preparing type acceptance applications are contained in Subpart J of Part 2. The Commission believes the standards with which these transmitters must comply, together with the locational restrictions delineated in these rules, are sufficiently adequate to protect AM broadcast stations from interference. As a further protection measure we have made TIS operations secondary in nature and have provided that if necessary an authorization may be suspended, modified or withdrawn by the Commission to resolve any conflicts, pursuant to § 89.102(c)(1)(iii).

5. NAB further questions who must bear the responsibility for showing the presence of interference. It contends that the rules do not "charge the TIS licensee with the affirmative duty to ascertain that his station, once operational, is not in fact causing interference." On reconsideration, NAB urges the Commission to make clear that the burden of proof regarding the question of interference rests with the TIS licensee.

6. We point out that the rules promulgated in the proceeding have been designed such that if TIS's are operating compliantly, interference to AM broadcast stations should not take

[1]42 FR 39422, August 4, 1977.

place. Accordingly then, if each licensee complies with the rules in establishing his station, we do not foresee a likelihood of interference occurring. However, as mentioned previously, because of this added concern by broadcasters, provision was made to handle conflicts arising from any claims of interference (See § 89.102(c)(1)(iii).

7. NAB reiterates a number of arguments it and other broadcast interests presented earlier in this proceeding. In brief, these are:

Economic injury will result to broadcasters due to fragmentation of audience by TIS's.

The Rules do not provide necessary safeguards to assure noninterference.

Public notification of applications for TIS's is necessary.

Since NAB fails to present any new evidence regarding these issues and because they have been discussed at length in the Report and Order in Docket 20509, we shall not further address or consider them in this item.

8. In the Third and Fifth Notice of Inquiry (NOI) for developing the U.S. position for the 1979 World Administrative Radio Conference (WARC-79), NAB points out that the Commission has gone on record as advocating an expansion of the standard AM broadcast band to include 525-535 kHz and 1605-1805 kHz for Region 2 under international allocations. Accordingly, NAB contends that the Commission's decision establishing TIS operations through Report and Order in Docket 20509 is inconsistent with a U.S. position to expand the AM band. It further urges the Commission to include in its rules "language which unquestionably establishes that TIS authority may be revoked if 525-535 kHz and 1605-1806 kHz are opened to standard broadcasting at WARC-79."

9. NAB is correct in its statement that the Commission's Fourth and Fifth NOI in Docket No. 20271 listed Broadcasting in the 525-535 and 1605-1805 kHz bands for Region 2. However, it is the Commission's current intention to reserve these bands for Travelers Information Stations as reflected in its Eighth NOI in Docket No. 20271 released on May 5, 1978.

10. In its petition, the Mississippi Broadcasters Association (MBA) requests that the Commission move to deny all the rules promulgated in the Report and Order. MBA states "that it is not in the public interest to establish a service that will compete with broadcasters where that service is designed to operate on broadcast receivers." Secondly, it claims that the Commission failed to "address the question of the habits of the motoring public, and the tendency of listeners not to regularly switch frequencies." These factors, MBA believes, will fragment the commercial broadcasters' audience causing a decline in listenership.

11. In its petition, MBA fails to present any newly discovered evidence not previously considered in this proceeding. The issues mentioned by MBA have been duly considered and were discussed at length in the Commission's Report and Order in Docket 20509. Accordingly, we shall not further address these particular points.

12. The Attorney General's Office and Department of Transportation of the State of Iowa jointly filed a Petition for Reconsideration of § 89.102 (c)(1)(iv). This particular rule restricts the transmitting site of each TIS to the immediate vicinity of the following specified areas: air, train, and bus transportation terminals; public parks and historical sites; interstate highway interchanges, bridges, and tunnels. In its Petition, Iowa presents several factors with respect to this rule which, it believes, are in conflict with the public interest. Regarding the restriction to interstate highway interchanges, it contends that conditions exist on noninterstate roads "identical to those found on interstate highways wherein the information transfer capabilities of TIS could benefit the motoring public." Moreover, it claims that the restriction to interstate highway interchanges, bridges, and tunnels is in conflict with good signing practice. As an example, at interstate interchanges, information signing for TIS's "would have to compete with both interchange guide signs and local service information signs." Further, it alleges that motorists exiting at an interchange could become confused if the TIS were transmitting information relative to conditions downstream from the transmitting site.

13. From the standpoint of installation and maintenance, Iowa further points out that transmitting sites other than those permitted under § 89.102(c)(1)(iv) may be more desirous. As example, Iowa is currently operating two stations under experimental license: One site being a public rest area and the other, a truck weigh station.[2] "These locations", it states, "permit the placement of equipment in a climate controlled atmosphere, with frequent surveillance by DOT personnel which in turn provides security and ease of service. The locations also afford needed power and telephone transmission facilities. Nearby interchanges lack these amenities."

14. Because Federal Highway Administration authorization is required prior to any new installation of signing at interstate interchanges, a further delay, Iowa contends, would be added in setting up stations. Iowa claims the locational restrictions also "would act to impede the development of non-permanent TIS facilities. Mobile or nonpermanent traveler information stations appear to be capable of providing a valuable adjunct to visual signing in the vicinity of construction and certain maintenance activities. Currently, visual signing alone does not function in an entirely satisfactory manner in these cases, with resultant safety problems and/or inconvenience to motorists." In this regard, Iowa requests that the Commission consider allowing non-permanent TIS facilities to operate within the 0.5 mv/m contour of AM broadcast stations on 540 and 1600 kHz during the hours those stations are off the air. It claims this would allow TIS to augment visual signing attendant with detours, etc., during twilight and night hours.

15. Although Iowa presents several interesting suggestions, we are not convinced at this time that it would be in the public's interest to modify the rules promulgated in this proceeding. In particular, we believe it remains necessary to maintain § 89.102(c)(1)(iv) which restricts TIS's to specified locations. These locational restrictions have been imposed to discourage the installation of "networks" or "ribbons" of stations along highways for the purpose of continuously attracting listeners (see paragraph 23 of Report and Order in Docket 20509).

16. However, we do find particular merit in Iowa's argument that certain areas are more suitable than others with respect to the installation of transmitting equipment. Accordingly, we would give due consideration to an applicant that proposes installation of the station's transmitting equipment at a suitable area: *Provided*, That it is in the vicinity of one of the permitted locations set out in § 89.102(c)(1)(iv). As a point of clarification, the location—interstate highway interchanges—is construed to mean the intersection of a Federal Interstate Highway with any other Interstate, Federal, State, or local highway. Accordingly, for clarification, the location "interstate highway interchanges" is being amended to read as "any intersection of a Federal Interstate Highway with any other Interstate, Federal, State, or local highway".

[2] On June 30, 1977, Iowa was granted authorization to operate two experimental stations under Part 5 of the Commission's Rules until July 1, 1978. These stations are KI2XCM, located two miles west of the Walnut Junction of I-80, and KI2XCL, located at the Scott County rest area north of Davenport on I-80. Iowa was granted these licenses subject to the condition that (1) each authorization was not renewable and if operation was expected to continue beyond the term of authorization, then an application to operate under Part 89 authority as a Travelers Information Station should be filed, and (2) the grant of each authorization was in no way construed as a finding that the licensee meets any of the requirements of Travelers Information Stations under Part 89 and that all expenses incurred were at the risk of the licensee.

17. For the purpose of protecting adjacent channel AM broadcasters from harmful interference, we cannot consider allowing the operation of any mobile or non-permanent TIS facility. This matter of electromagnetic interference was discussed at length in paragraphs 24 and 25 of the Report and Order.

18. Accordingly, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended: *It is ordered,* That effective July 14, 1978, Part 89 of the Commission's rules is amended as shown below.

19. *It is further ordered,* That the Petitions for Reconsideration of the Commission's decision in Docket No. 20509 are denied.

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

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

FEDERAL COMMUNICATIONS COMMISSION,[3]
WILLIAM J. TRICARICO,
Secretary.

Part 89 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 89.102(c)(1)(iv) is amended to read as follows:

§ 89.102 Radio call box and travelers information station operation.

* * * * *

(c) * * *

(1) * * *

(iv) The transmitting site of each Travelers Information Station shall be restricted to the immediate vicinity of the following specified areas: Air, train, and bus transportation terminals, public parks and historical sites, bridges, tunnels, and any intersection of a Federal Interstate Highway with any other Interstate, federal, state, or local highway.

* * * * *

[FR Doc. 78-16030 Filed 6-8-78; 8:45 am]

[3]Commissioners Ferris, Chairman; and Brown absent; Commissioners Quello and Fogarty concurring in the result.

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

252 LOANS UNDER THE EMERGENCY RAIL FACILITIES RESTORATION ACT

253 PAYMENTS TO TRUSTEES OF RAILROADS IN REORGANIZATION FOR THE CONTINUED PROVISION OF ESSENTIAL TRANSPORTATION SERVICES PURSUANT TO SECTION 213(a) OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973

254 AGREEMENTS PURSUANT TO SECTION 215 OF THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Revocation of Part

AGENCY: Federal Railroad Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule revokes certain regulations governing financial assistance programs under the Emergency Rail Facilities Restoration Act and the Regional Rail Reorganization Act of 1973. These financial assistance programs have accomplished their statutory aims and are now terminated.

EFFECTIVE DATE: June 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Jeffrey K. Mercer, Office of Chief Counsel, Federal Railroad Administration, 202-426-7737.

SUPPLEMENTARY INFORMATION: Each of the parts revoked by this rule prescribes application requirements under certain programs for providing financial assistance to railroads. 49 CFR Part 252 governs applications for loans under the Emergency Rail Facilities Restoration Act. 49 CFR Parts 253 and 254 govern applications by railroads in reoganization for financial assistance under sections 213 and 215, respectively, of the Regional Rail Reorganization Act of 1973.

Each of these financial assistance programs has been terminated. Accordingly, 49 CFR Parts 252, 253, and 254 are hereby revoked. This rule revokes only the implementing regulations and does not affect the validity or enforceability of any obligations outstanding as a result of financial assistance provided under any of these programs.

The revocation of Parts 252, 253, and 254 will have no economic impact. Accordingly, an evaluation under Paragraph 8(b)(2) of the Secretary's Memorandum of January 31, 1978 (43 FR 9582), is unnecessary.

(Emergency Rail Facilities Restoration Act, Pub. L. 92-591, 86 Stat. 1304; Regional Rail Reorganization Act of 1973, 45 U.S.C. 701 et seq. (1970 Ed. Suppl. V. 1975); the Department of Transportation Act, 49 U.S.C. 1651 et seq. (1970 Ed.), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49 (o) and (q).)

Dated: June 6, 1978.

JOHN M. SULLIVAN,
Federal Railroad Administrator.

[FR Doc. 78-16020 Filed 6-8-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected S.O. No. 1328]

PART 1033—CAR SERVICE

Regulations for Return of Trailers; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1328).

SUMMARY: Because of heavy seasonal demands there is a shortage of insulated-ventilated trailers for shipments of watermelons, potatoes and other perishable freight originating at stations on the Seaboard Coast Line Railroad in Florida for movement in trailer-on-flat-car service. Service Order No. 1328 requires the return to the Seaboard Coast Line of all such trailers owned or leased by that line or by its affiliates the Clinchfield, Georgia and Louisville and Nashville Railroads.

DATES: Effective 12:01 a.m., June 1, 1978; expires 11:59 p.m., 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.

An acute shortage of insulated trailers equipped with ventilating devices exists on certain railroads in the southeast for transporting melons, potatoes, and other perishable products requiring protection from heat. Shippers are being deprived of the insulated and ventilated trailers required to transport such perishable freight, thus

creating spoilage of produce and great economic loss. Many insulated, ventilated trailers, after being unloaded are being retained and appropriated for other services which do not result in their return to the major origin areas for perishable freight. Present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of insulated, ventilated trailers are ineffective. It is 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, the Commission finds 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,

§ 1033.1328 Corrected Service Order No. 1328.

(a) *Regulations for return of trailers.* 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) Remove from general distribution and deliver by rail, on flat cars insulated trailers described in paragraph (a)(1)(i) of this section to any of the following railroads:

Louisville & Nashville Railroad Co. (L&N).
Richmond, Fredericksburg & Potomac Railroad Co. (RFP).
Seaboard Coast Line Railroad Co. (SCL).

(i) Insulated trailers subject to this order are identified as follows:

Reporting Marks: RCLZ, RCRZ, RGRZ, RLNZ, RSBZ or *RSCZ 200417-200451, 700000-709999 and 786250-791024; and SBD, SBDZ or SCLZ 2002-2024, 30104-30901 and 702002-703150.

(2) Trailers described in paragraph (a)(1) of this section, located on railroads other than the L&N, RFP or SCL, may be loaded with freight requiring protection from heat to any destination to which loading is authorized by Rule 2 of the Code of Trailer Service Rules, published on page 195 of the Official Intermodal Equipment Register, ICC-OIER No. 33, issued by W. J. Trezise, or reissues thereof; or, such trailers may be loaded with any type of freight to any station on the lines of the L&N, RFP or SCL.

(3) Trailers described in paragraph (a)(1) of this section located on the L&N or RFP for which no suitable loading, as defined in paragraph (a)(4) of this section is available, shall be delivered empty, on cars, to the SCL.

(4) Trailers described in paragraph (a)(1) of this section, located on the L&N, RFP, or SCL, may be used only for transporting traffic requiring protection from heat.

*Correction.

(b) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423.

(c) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded trailer, described in this order contrary to the provisions of the directive.

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

(e) Effective date. This order shall become effective 12:01 a.m., June 1, 1978.

(f) 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).)

A copy of 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. 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.

Decided May 31, 1978.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

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

[FR Doc. 78-15998 Filed 6-8-78; 8:45 am]

[3410-30]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

PART 226—CHILD CARE FOOD PROGRAM

Appendix—Second Apportionment of Fiscal Year 1978 Child Care Food Service Equipment Assistance Funds Pursuant to the National School Lunch Act

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action reapportions child care food service equipment assistance funds released by States among those States requesting additional funds. The purpose of this action is to effect maximum utilization of such funds.

EFFECTIVE DATE: May 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry Rodriguez, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8211.

Pursuant to section 17 of the National School Lunch Act, as amended by Pub. L. 94-105, child care food service equipment assistance funds available for the fiscal year ending September 30, 1978, are reapportioned among the States as follows:

State	Total reapportionment
Connecticut	$4,639
Massachusetts	11,173
Rhode Island	2,444
Delaware	1,330
District of Columbia	2,456
Maryland	7,470
New Jersey	11,721
New York	40,526
Virginia	14,121
Alabama	13,644
Mississippi	12,412
Minnesota	5,506
Wisconsin	8,534
Louisiana	19,094
New Mexico	7,536
Colorado	4,131
Iowa	4,218
Montana	2,716
North Dakota	1,581
Alaska	990
Arizona	7,536
Idaho	2,329
Oregon	5,270
Trust Territory	239
Washington	7,688
Total	199,304

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

Dated: May 31, 1978.

LEWIS B. STRAUS,
Administrator.

[FR Doc. 78-16042 Filed 6-8-78; 8:45 am]

[3410-30]

PART 227—NUTRITION EDUCATION AND TRAINING PROGRAM

Appendix—Apportionment of Funds for Nutrition Education and Training

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This appendix sets forth

the apportionment of funds for nutrition education and training among the States as authorized by the Child Nutrition Act of 1966, as amended. These funds will provide for nutrition education and training programs in the States.

EFFECTIVE DATE: June 9, 1978.

FOR FURTHER INFORMATION:

Dr. Kathleen M. Martin, Acting Director, Nutrition and Technical Services, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: Section 19(j) of the Child Nutrition Act of 1966, as amended, requires that grants to the States must be based on a rate of 50 cents for each child enrolled in the schools or institutions within the State, except that no State will receive an amount less than $75,000 per year. Enrollment data used for this purpose must be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare.

FNS obtained certified data on enrollment from the Office of Education of the Department of Health, Education, and Welfare in the following categories: Public and private schools, and public residential child care institutions. The figures for these categories are enumerated under the category of "Schools" in the Appendix. The Office of Education was unable to provide certified enrollment data on private residential and public and private nonresidential child care institutions. Since enrollment data for private residential child care institutions and public and private nonresidential child care institutions were not available, data for public and nonprofit private nonresidential child care institutions were taken from participation reports submitted to FNS in the Child Care Food Program. These are set out under the category "Child Care Institutions" in the Appendix. The following States do not participate in the Child Care Food Program; therefore, data are not available regarding them in the category of "Child Care Institutions": Puerto Rico, American Samoa, and Guam. Nor do the data available report the Northern Marianas as a separate participating entity.

A State's apportionment may be adjusted. *Provided* That, on or before July 10 1978, the State agency submits certified data regarding enrollment from a recognized and acceptable State or State-utilized source for private residential and public and private nonresidential child care institutions. FNS will contact State agencies regarding the procedure to be followed in submitting data.

The total grant to a State will be reduced proportionately, as provided in § 227.5(a) of the regulations, if the State education agency is prohibited by law from administering the program in nonprofit private schools or institutions. Funds withheld for this purpose will be used by FNS for the administration of the Program in such nonprofit private schools or institutions.

Pursuant to section 19(j) of the Child Nutrition Act of 1966, as amended, (42 U.S.C. 1788) funds available for the fiscal year, ending September 30, 1978, are apportioned among the States as follows:

State	Public schools [1]	Private schools [2]	Child care institutions [3]	Total
Connecticut	$318,767.00	$49,450.00	$2,436.00	$370,653.00
Maine	125,244.50	8,400.00	1,036.00	134,680.50
Massachusetts	605,232.50	87,800.00	5,483.00	698,515.50
New Hampshire	88,358.00	10,250.00	801.00	99,409.00
Rhode Island	86,625.50	16,150.00	1,388.00	104,163.50
Vermont	53,308.00	4,900.00	616.50	*75,000.00
Delaware	62,055.50	9,350.00	818.50	*75,000.00
District of Columbia	64,694.00	9,650.00	1,400.50	75,744.50
Maryland	432,179.00	66,800.00	3,349.50	502,328.50
New Jersey	718,144.50	150,400.00	11,970.50	880,515.00
New York	1,700,386.00	352,800.00	32,578.50	2,085,764.50
Pennsylvania	1,103,219.00	233,950.00	12,347.00	1,349,516.00
Puerto Rico	345,336.50	47,250.00	0.00	392,586.50
Virginia	552,687.00	44,900.00	4,528.50	602,115.50
Virgin Islands	12,815.50	3,150.00	331.50	*75,000.00
West Virginia	203,018.50	6,350.00	1,633.00	211,001.50
Alabama	376,987.50	28,200.00	6,307.00	411,494.50
Florida	772,046.00	73,800.00	11,810.50	857,656.50
Georgia	549,267.00	35,600.00	9,297.50	594,164.50
Kentucky	348,268.00	35,700.00	4,731.50	388,699.50
Mississippi	256,021.00	33,150.00	14,214.50	303,385.50
North Carolina	599,605.00	28,400.00	8,255.00	636,260.00
South Carolina	312,253.50	24,700.00	4,350.00	341,303.50
Tennessee	422,682.00	22,350.00	6,502.00	451,534.00
Illinois	1,130,664.00	206,200.00	8,269.00	1,345,133.00
Indiana	584,371.50	51,350.00	6,207.50	641,929.00
Michigan	1,024,663.50	110,050.00	6,125.00	1,140,838.50
Minnesota	431,646.50	50,100.00	3,156.50	484,903.00
Ohio	1,133,168.50	142,050.00	8,219.50	1,283,438.00
Wisconsin	474,899.50	94,700.00	4,567.00	574,166.50
Arkansas	232,429.50	10,400.00	2,649.00	245,478.50
Louisiana	422,519.00	82,950.00	5,587.00	511,056.00
New Mexico	142,843.00	7,000.00	2,650.00	152,493.00
Oklahoma	300,145.00	5,100.00	5,064.50	310,309.50
Texas	1,419,147.00	67,650.00	12,635.00	1,499,432.00
Colorado	286,973.50	20,300.00	4,237.00	311,510.50
Iowa	303,337.00	33,350.00	4,141.50	340,828.50
Kansas	219,370.00	16,400.00	2,332.50	238,102.50
Missouri	477,454.50	70,600.00	7,184.50	555,239.00
Montana	85,615.00	4,400.00	968.00	90,983.00
Nebraska	156,404.00	22,650.00	1,339.50	180,393.50
North Dakota	64,847.50	6,200.00	544.50	*75,000.00
South Dakota	74,488.50	7,400.00	815.00	82,703.50
Utah	157,911.50	1,950.00	671.50	160,533.00
Wyoming	45,565.00	1,550.00	482.50	*75,000.00
Alaska	46,805.50	950.00	708.50	*75,000.00
American Samoa	4,975.00	1,000.00	0.00	*75,000.00

State	Public schools [1]	Private schools [2]	Child care institutions [3]	Total
Arizona	252,213.00	28,100.00	2,869.50	283,182.50
California	2,194,769.50	218,900.00	18,673.00	2,432,342.50
Guam	14,431.00	2,550.00	0.00	*75,000.00
Hawaii	87,856.00	17,150.00	1,794.00	106,800.00
Idaho	100,279.00	2,400.00	510.00	103,189.00
Nevada	71,431.50	2,800.00	709.50	*75,000.00
Oregon	239,708.50	12,050.00	2,593.50	254,352.00
Trust Territories	14,891.50	2,114.00	487.00	*75,000.00
Washington	391,783.50	22,250.00	3,819.50	417,853.00
Northern Marianas	2,146.50	243.50	0.00	*75,000.00
Total	22,698,955.00	2,706,307.50	266,197.00	26,063,681.00

[1] Schools—U.S. Department of Health, Education, and Welfare, Education Division, National Center for Education Statistics (NCES), Statistics of Public Elementary and Secondary Day Schools, Fall 1976, table 4, p. 30 except (1) Massachusetts, estimated by State for all 1975 and (2) Northern Marianas and Trust Territory 1975-76 data from Department of Interior, adjusted to include preschool. Residential institutions—Estimated enrollment, school year 1975-76, based on average daily attendance as reported for institutions, by State, under the provisions of Pub. L. 89-10, title I, pt. A, subpt. 2. Estimated by NCES.

[2] U.S. Department of Health, Education, and Welfare, Education Division, (NCES), Digest of Education Statistics, 1976, table 46, p. 47. Northern Marianas and Trust Territory 1975-76 data from Department of Interior, adjusted to include preschool.

[3] U.S. Department of Agriculture, Food and Nutrition Service, Program Reporting Staff, Average Daily Attendance (ADA) of Institutions Participating in the Child Care Food Program—March 1977, dated April 13, 1978.

[4] Adjusted to provide the minimum grant in accordance with sec. 19(j) of the Child Nutrition Act of 1966, as amended.

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

Dated: June 2, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-15840 Filed 6-8-78; 8:45 am]

[3410-30]

PART 227—NUTRITION EDUCATION AND TRAINING PROGRAM

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: On March 24, 1978 interim regulations were published in the FEDERAL REGISTER (43 FR 12296-12299) to implement the initial phase of the Nutrition Education and Training Program established by section 19 of the Child Nutrition Act as added by Pub. L. 95-166. Those interim regulations governed application by State agencies for advance funds and the hiring of a State Coordinator for Nutrition Education and Training. The Department is now implementing the second and final phase by adding new sections governing the needs assessment, State plans and additional operational requirements.

DATE: This regulation shall become effective June 9, 1978, comments are due on or before July 24, 1978.

ADDRESS: Comments should be sent to: Dr. Kathleen M. Martin, Acting Director, Nutrition and Technical Services Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Joan Luck, Branch Chief, Nutrition Education and Training Branch, Nutrition and Technical Services Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8286.

SUPPLEMENTARY INFORMATION: Interim regulations published on March 24, 1978, provided for the first phase of the Program, hiring the State coordinator and applying for advance funding. Rules regarding the conduct of the needs assessment, and development, submission and implementation of the State Plan were not included.

Section 19(h)(2) of the law requires States to assess the nutrition education needs of the State. This includes the identification and location of all children in need of nutrition education and the identification of resources within the State for materials, facilities, staffs, and methods related to nutrition education. However, no mention in the law is made of assessing the training needs of teachers and school foodservice personnel. The Department believes this area must be addressed. Therefore, these regulations require State agencies to conduct a needs assessment identifying the nutrition education needs of children, inservice training needs of teachers, and training needs of school foodservice personnel.

The needs assessment shall serve as the data base for developing the State plan which describes the manner in which the State agency intends to implement and operate all aspects of the Program. Although the regulations require each State agency to provide plans for reaching children, teachers, and school foodservice personnel, State agencies will also be required to establish priorities, based on the needs assessment. For example, if a State agency determines that present ongoing inservice training activities for teachers are sufficient for the first year of the program, the State must direct its nutrition education and training resources to children and foodservice personnel. The submitted plan must substantiate the adequacy of ongoing activities in any category proposed to be excluded, e.g., inservice training for teachers, and may provide plans for these categories for the following fiscal years. Approval of the plan shall be on a fiscal year basis.

These regulations also include additional requirements regarding financial management systems, program income, recovery of funds, grant closeout procedures, and management evaluations and review. These additional sections are necessary in order to comply with OMB Circular A-102 and to ensure effective administration and management of this Program.

State agencies are now appointing a coordinator and beginning the planning process to implement their nutrition education programs. Since the conduct of the needs assessment and development of the State Plan are among the first responsibilities of the State coordinator for the Nutrition Education and Training Program, immediate action is required to provide State agencies with rules concerning these activities. Therefore, it is deemed impracticable and contrary to the public interest to issue these amendments as proposed rules. However, the Department welcomes written comments on these interim regulations and will consider all comments received in the promulgation of final regulations which will combine this set

of interim regulations with the previous set published on March 24, 1978. Written comments on these amendments will be available for public inspection during normal business hours in Room 556, Group Hospitalization Inc. Building, 500 12th Street SW., Washington, D.C. 20250. To be assured of consideration, comments on these interim regulations and those interim regulations published on March 24, 1978 should be received no later than July 24, 1978. Further, since there is an immediate need for participants to make plans with respect to the implementation of this program, and any delay may diminish the effectiveness of the program, and also because all interested parties have received prior notice further interim regulations would be published, it is found for good cause that the 30 day period before a rule becomes effective is waived, and this regulation shall become effective on the date set forth herein.

Accordingly, 7 CFR part 227 is amended as follows:

1. In § 227.5, paragraph (d) is redesignated as paragraph (e) and paragraph (e) is redesignated as paragraph (f). Paragraphs (d), (g), and (h) are added to read as follows:

§ 227.5 Program Funding.

* * * * *

(d) *Funds for implementing State plan.* Each State agency shall receive the remaining portion of its total grant in order to implement its State plan, which has been approved by FNS, if the State agency has carried out the responsibilities for which advances were received. With the submission of the State plan each State agency may apply for the funds remaining of its total grant by amending the application required under § 227.4 and § 227.30(b).

* * * * *

(g) *Unobligated funds.* The State agency will release to FNS any Federal funds made available to it under the Program which are unobligated by September 30 of each fiscal year.

(h) *Funds for existing programs.* State agencies shall maintain their present level of funding for existing nutrition education and training programs. FNS funds for the program shall augment current nutrition education and training programs and projects. Funds made available by FNS for this Program shall not replace such funds.

2. Section 227.30 is amended by adding a sentence to the end of paragraph (c), redesignating paragraph (d) as paragraph (f), adding new paragraphs (d) and (e), redesignating paragraph (e) as paragraph (g), and adding subparagraphs (f) (3), (4), (5), and (6), as follows:

§ 227.30 Responsibilities of State.

* * * * *

(c) *State Coordinator.* * * *The State Coordinator shall be a State employee who reports directly or indirectly to the Chief State School Officer and is employed for the program on a full-time basis.

(d) *Needs assessment.* Each State agency shall conduct a needs assessment in accordance with § 227.36. The needs assessment shall be the data base utilized in formulating the State plan. Each State agency may apply for funds in order to carry out the needs assessment in accordance with § 227.5.

(e) *Developing and submitting the State plan.* Each State agency shall submit to the Secretary, within nine months after the award of the planning and assessment grant, a State Plan for nutrition education and training in accordance with § 227.37. The Secretary shall act on the submitted State Plan within 60 days after it is received.

(f) *Records and reports.* * * *

(3) Each State agency shall submit a performance report on a quarterly basis, commencing with the quarter in which funds are received, on a form to be determined by FNS. (4) Each State agency shall maintain a financial management system in accordance with Federal Management Circular 74-4 and OMB Circular A-102, Attachment G. (5) Each State agency shall comply with the requirements of OMB Circular A-102, Attachments N and O, and Federal Management Circular 74-4, for property management and the procurement of supplies, equipment and other services with Program funds. (6) Any income accruing to a State or local agency because of the Program shall be used in accordance with OMB Circular A-102, Attachment E.

3. A new § 227.31 is added to Subpart B to read as follows.

§ 227.31 Audits and management evaluation and reviews.

(a) *Audits.* (1) Examinations in the form of audits or internal audits shall be performed in accord with OMB Circular A-102, Attachment G.

(b) *Management evaluations and reviews.* The State agency is responsible for meeting the following requirements:

(1) The State agency shall establish evaluation and review procedures to monitor compliance with the State Plan for local educational agencies and land grant colleges, other institutions of higher education and public or private nonprofit educational or research agencies, institutions, or organizations.

(2) The State agency shall require participating agencies to establish program review procedures to be used in reviewing their operations and those of subsidiaries or contractors.

4. §§ 227.36 and 227.37 is added to Subpart C to read as follows:

§ 227.36 Requirements of needs assessment.

(a) The needs assessment process identifies the discrepancies between "what should be" and "what is" and shall be applied to each category listed below to enable State educational agencies to determine their nutrition education and training needs. The needs assessment shall identify the following as a minimum: (1) children, teachers, and foodservice personnel in need of nutrition education and training; (2) existing State or federally funded nutrition education and training programs including their: (i) goals and objectives; (ii) source and level of funding; (iii) any available documentation of their relative success or failure; and (iv) factors contributing to their success or failure; (3) offices or agencies at the State and local level designated to be responsible for nutrition education and training of teachers and school foodservice personnel; (4) any relevant State nutrition education mandates; (5) funding levels at the State and local level for preservice and inservice nutrition education and training of foodservice personnel and teachers; (6) State and local individuals, and groups conducting nutrition education and training; (7) materials which are currently available for nutrition education and training programs, and determine for each: (i) subject area and content covered; (ii) grade level; (iii) how utilized; (iv) acceptability by user; (v) currency of materials; (8) any major child nutrition-related health problems in each State; (9) existing sources of primary and secondary data, including any data that has been collected, for documenting the State's nutrition education and training needs; (10) available documentation of the competencies of teachers in the area of nutrition education; (11) available documentation of the competencies of foodservice personnel; (12) problems encountered by schools and institutions in procuring nutritious food economically and in preparing nutritious appetizing meals and areas where training can assist in alleviating these problems; (13) problems teachers encounter in conducting effective nutrition education activities and areas where inservice training or materials can assist in alleviating these problems; (14) problems in dietary habits of children and areas where nutrition education may assist in positive changes; (15) problems encountered in coordinating the nutrition education by teachers with the meal preparation and activities of the foodservice facility and areas where

training might alleviate these problems.

(b) The needs assessment should provide not only data on current activities but also a description of the problems and needs in each category and whether training or materials would help alleviate the identified problems.

§ 227.37 State Plan for Nutrition Education and Training.

(a) *General.* Each fiscal year the State agency shall submit a State Plan for Nutrition Education and Training for approval to FNS. The plan shall be based on the needs identified from the needs assessment and provide plans for the nutrition education of students and inservice training of foodservice and education personnel. The plan shall be submitted within 9 months after award of the assessment and planning grant. Guidance for the preparation and submission of the Plan shall be provided by FNS.

(b) *Requirements for the State Plan.* The State Plan shall provide for the following: (1) description of the needs assessment conducted within the State: (2) the findings of the needs assessment within the State used to determine the goals and objectives of the State Plan for: (i) inservice training of foodservice personnel, (ii) nutrition education of children, (iii) inservice training in nutrition education for teachers; (3) goals and objectives of the State Plan, (4) identification of the priority populations to be reached during the fiscal year; (5) provisions for coordinating the nutrition education and training programs carried out with funds made available under this section with any related publicly supported programs being carried out within the State to include: (i) identification of existing programs that may be utilized, (ii) description of how representatives of such groups are to be involved in the planning and implementation of the State program; (iii) criteria and procedure for selection of such representatives; (6) plans to establish a State level advisory council to solicit the advice and recommendations of the National Advisory Council on Child Nutrition, other offices within the State Educational Agency, interested teachers, food and nutrition professionals and paraprofessionals, school foodservice personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (7) plans including a timetable, for reaching all children in the State with instruction in the nutritional value of foods and the relationship among food, nutrition and health, for inservice training of foodservice personnel in the principles and skills of foodservice management and nutrition and for inservice instruction for teachers in sound principles of nutrition education; (8) any plans for using, on a priority basis, the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301-305, 307, and 308) or the Act of August 30, 1890 (26 Stat. 417, as amended; 7 U.S.C. 312-326 and 328), including the Tuskegee Institute; (9) any plans for contracting with land-grant colleges, described above, and other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions or organizations for carrying out nutrition education and training activities; (10) any plans to contract with the land-grant colleges, described above, other institution of higher education, public and nonprofit educational or research agencies, institutions, or organization to pay the cost of pilot project such as, but not limited to, project for the development, demonstration, testing, and evaluation of curricula for use in early childhood, elementary, and secondary education programs; (11) identification of schools, school districts, and sponsoring agencies which may agree to participate in the nutrition education and training program; (12) brief description of (i) involvement of land-grant colleges, other institutions of higher education, and public or private nonprofit educational or research agencies, institutions, or organizations, (ii) pilot projects, including objectives, subject matter and expected outcomes, and (iii) nutrition education and training programs to be conducted by schools, school districts, and sponsoring agencies receiving funds under this provision including objectives, subject matter, and expected outcomes; (13) time frame and milestones for implementation of State Plans; (14) evaluation component for each objective of the State Plan; (15) description of staff available to perform State agency responsibilities of the State nutrition education and training program which includes: (i) definition of duties and responsibilities, (ii) minimum professional qualifications, (iii) number and classification of personnel; (16) a description of the procedures used to comply with the requirements of Title VI of the Civil Rights Act of 1964, including racial and ethnic participation data collection, public notification procedures and the annual civil rights compliance review process; (17) plans for the conduct of audits in accordance with § 227.31, and (18) other components that the State determines necessary.

5. Subpart D—Miscellaneous is amended by adding § 227.41, § 227.42, § 227.43, and § 227.44, to read as follows:

§ 227.41 Recovery of funds.

(a) FNS may recover funds from a State agency under any of the following conditions:

(1) If FNS determines, through a review of the State agency's reports, program, or financial analysis, monitoring, audit or otherwise, that the State agency's performance is inadequate or that the State agency has failed to comply with this Part or FNS guidelines.

(2) If FNS determines that the State agency is not expending funds at a rate commensurate with the amount of funds distributed or provided for expenditure under the Program.

(3) If FNS determines that a State agency is not providing full and timely reports.

(b) FNS shall effect such recoveries of funds through adjustments in the amount of funds provided under the Program.

§ 227.42 Grant closeout procedures.

The requirements of OMB Circular A-102 Attachment L are applicable in the termination of any grant under this part.

§ 227.43 Participation of Adults.

Nothing in this part shall prohibit a State or local educational agency from making available or distributing to adults education materials, resources, activities or programs authorized by this Part.

§ 227.44 Management evaluation and reviews.

FNS shall establish evaluation procedures to determine whether State agencies carry out the purposes and provisions of this part, the State agency plan and FNS guidelines and instructions. To the maximum extent possible the State's performance shall be reviewed and evaluated by FNS on a regular basis including the use of public hearings.

EFFECTIVE DATE: This regulation shall become effective on June 9, 1978.

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

Dated: June 7, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-16251 Filed 6-8-78; 10:16 am]

[3410-30]

PART 230—FOOD SERVICE EQUIPMENT ASSISTANCE PROGRAM

Appendix-Second Apportionment of Food Service Equipment Assistance Funds Pursuant to Child Nutrition Act of 1966, for Fiscal Year 1978

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action reapportions food service equipment assistance funds released by States among those States requesting additional funds. The purpose of this action is to effect maximum utilization of such funds.

EFFECTIVE DATE: May 31, 1978.

FOR FURTHER INFORMATION:

Margaret O'K. Glavin, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8130.

Pursuant to sections 5 (b) and (e) of the Child Nutrition Act of 1966, Pub. L. 89-642, 80 Stat. 887, as amended, food service equipment assistance funds available for the fiscal year ending September 30, 1978, are reapportioned among the States as follows:

SECTION 5(b)

State	State agency	Withheld for private schools
Connecticut	$2,992	
Maine	1,501	$77
Rhode Island	933	
Vermont	700	
Delware	885	
District of Columbia	784	
Maryland	4,603	
New Jersey	6,769	
New York	17,982	
Pennsylvania	14,228	
Puerto Rico	5,264	
Virginia		101
West Virginia	2,802	
Alabama	6,656	
Georgia	10,540	
Kentucky	6,495	
Mississippi	5,042	
South Carolina	5,682	
Indiana	7,837	
Minnesota	6,589	
Ohio	12,628	815
Arkansas	3,782	64
Louisiana	8,580	
Oklahoma	4,221	
Texas	17,954	365
Colorado		82
Iowa	5,309	
Kansas	3,609	
Missouri	6,999	26
Montana	1,012	
Nebraska	2,069	
North Carolina		91
Utah	2,418	
Alaska	373	
Arizona	2,877	
California	18,899	
Idaho	1,185	
Oregon	2,812	
Trust Territory	248	
Washington		56
Total	$203,259	$1,677

SECTION 5(e)

State	State agency	Withheld for private schools
Connecticut	$46,423	
Maine	22,067	
New Hampshire	6,298	
Delaware	3,605	
Maryland	24,352	
New Jersey	200,227	
New York	148,071	
Pennsylvania	67,857	
Virginia	670	
West Virginia	9,184	
Alabama	45	
Florida	7,344	
Michigan	152,244	
Minnesota	7,530	
Ohio	21,073	
Arkansas		50
Texas	32,925	
Iowa	3,587	
Montana	7,052	
Nebraska	6,692	5,942
North Dakota	1,317	
Utah	805	
Arizona	14,764	
California	164,323	
Hawaii		1,666
Idaho	3,086	
Trust Territory	6,721	
Total	$958,262	$7,658

(Secs. 2, 5, 6 and 9 through 16, 80 Stat. 885-890, as amended; (42 U.S.C. 1771, 1774, 1778-1785).)

NOTE.—The Food and Nutrition Service has determined that his document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A107.

Dated: May 31, 1978.

LEWIS B. STRAUS,
Administrator.

[FR Doc. 78-16041 Filed 6-8-78; 8:45 am]

[3410-34]

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

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Pink Bollworm

MISCELLANEOUS AMENDMENTS TO REGULATED AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The supplemental regulation which lists regulated areas for purposes of the Pink Bollworm Quarantine is amended by removing all or part of the following previously regulated counties or parishes which were listed as suppressive areas: Mississippi and Washington Counties in Arkansas; and Rapides Parish in Louisiana. Based upon surveys by Federal and State inspectors, the pink bollworm has been declared eradicated from the areas deleted and it is no longer necessary to regulate these areas in order to prevent the spread of the pink bollworm.

EFFECTIVE DATE: June 9, 1978.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, 301-436-8247.

SUPPLEMENTARY INFORMATION: The pink bollworm (*Pectinophora gossypiella* Saunders) is one of the most destructive and widespread insect pests of cotton in the world. This insect spread to the United States from Mexico in 1917 and now occurs throughout cotton-producing States from Arkansas to California.

Surveys conducted by the United States Department of Agriculture and State agencies have established that the pink bollworm has been eradicated in all or parts of the previously suppressive regulated areas in Mississippi and Washington Counties in Arkansas; and Rapides Parish in Louisiana; and, that it is no longer necessary to regulate these areas in order to prevent the spread of the pink bollworm. Therefore, part of Mississippi County and all of Washington County in Arkansas, and Rapides Parish, La., are deleted from the list of suppressive areas.

Accordingly, § 301.52-2a of the Pink Bollworm Quarantine regulations (7 CFR 301.52-2a) is hereby amended as follows:

In § 301.52-2a relating to the States of Arkansas and Louisiana under suppressive areas, the entire States are redescribed to read as follows:

§ 301.52-2a Regulated areas; suppressive and generally infested areas.

* * * * *

ARKANSAS

(1) *Generally infested area.* None.
(2) *Suppressive area.*
Clark County. The entire county.
Conway County. The entire county.
Faulkner County. The entire county.
Franklin County. The entire county.
Greene County. That portion of the county lying south of State Highway 25.
Hempstead County. The entire county.
Jefferson County. The entire county.
Lafayette County. The entire county.
Lincoln County. The entire county.
Little River County. The entire county.
Logan County. The entire county.
Lonoke County. The entire county.
Miller County. The entire county.
Mississippi County. That portion of the county lying south of State Highway 118, and west of State Highway 77.
Pulaski County. The entire county.
Yell County. The entire county.

* * * * *

LOUISIANA

(1) *Generally infested area.* None.
(2) *Suppressive area.*
Bossier Parish. The entire parish.
Caddo Parish. The entire parish.

De Soto Parish. The entire parish.
Natchitoches Parish. The entire parish.
Red River Parish. The entire parish.

* * * * *

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 37 FR 28464, 28477; 38 FR 19141; 7 CFR 301.52-2.)

This amendment relieves certain restrictions presently imposed, and should be made effective promptly in order to be of maximum benefit to the persons subject to the restrictions that are being relieved. This action is based on surveys by the United States Department of Agriculture and State agencies, and it does not appear that additional information would be made available to the Department by public participation in rulemaking proceedings on this amendment.

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

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

Done at Washington, D.C., this 2d day of June 1978.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.78-15802 Filed 6-8-78; 8:45 am]

[3410-02]

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

[Lemon Reg. 149]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 11-17, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 11, 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, 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 June 6, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports the demand for lemons is strong, especially for first grade fruit.

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 is 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. 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.

§ 910.449 Lemon Regulation 149.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period June 11, 1978, through June 17, 1978, is established at 340,000 cartons.

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

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

Dated: June 7, 1978.

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

[FR Doc. 78-16212 Filed 6-8-78; 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.

[3410-30]

AGRICULTURE DEPARTMENT

Food and Nutrition Service

[7 CFR Part 210]

NATIONAL SCHOOL LUNCH PROGRAM

Extension of Comment Period

AGENCY: Food and Nutrition Service, USDA.

ACTION: Extension of Comment Period.

SUMMARY: Notice is hereby given that the period is extended for receipt of comments on the proposed rule, published April 25, 1978 (43 FR 17476), delineating certain competitive foods that the Secretary of Agriculture has proposed not be approved for sale to children on school premises until after the last lunch period, for schools participating in programs under the Child Nutrition Act of 1966, and the National School Lunch Act. The Department continues to receive a large volume of public comments. In view of the number of comments received to date, and due to the complex nature of the competitive food issue, the Department considers it to be in the public interest to continue receiving comments beyond the date originally established. Therefore, the public comment period will be extended for an additional 14 days to June 23, 1978. The Department does not anticipate that this extension will result in any extension of the proposed rule's effective date.

DATES: To be assured of consideration, comments must be received on or before June 23, 1978.

ADDRESS: Comments should be sent to: Margaret O'K. Glavin, Acting Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, 202-447-8130.

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Acting Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, 202-447-8130.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

JUNE 8, 1978.

[FR Doc. 78-16263 Filed 6-8-78; 11:26 am]

[3410-05]

Commodity Credit Corporation

[7 CFR Part 1430]

PRICE SUPPORT PROGRAM FOR MILK

Terms and Conditions of 1978-79 Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal announces that the Secretary of Agriculture is considering the level of price support for milk for the 1978-79 marketing year, beginning October 1, 1978, and the prices and terms of purchase by CCC of butter, cheese, and nonfat dry milk. The Secretary may also consider other matters pertaining to the milk support program.

DATE: Comments must be received on or before August 8, 1978.

ADDRESS: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Indulis Kancitis (ASCS) 202-447-3385.

SUPPLEMENTARY INFORMATION: Section 201(c) of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, provides as follows: "The price of milk shall be supported at such level not in excess of 90 percent nor less than 75 percent of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Notwithstanding the foregoing, effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1979, the price of milk shall be supported at not less than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk."

Section 201(d) of the Act, as added by the Food and Agriculture Act of 1977, provides as follows: "Effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1981, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period. * * * Any adjustment under this subsection shall be announced by the Secretary not more than thirty days prior to the beginning of the period to which it is applicable."

The minimum level of price support for manufacturing milk must be 80 percent of the parity price, as determined pursuant to the Act, as of the beginning of the marketing year (October 1, 1978). The support price announced as of October 1, 1978, will be adjusted effective April 1, 1979, as required by the Food and Agriculture Act of 1977. Based on parity data as of May 31, 1978, 80 percent of the parity equivalent price for manufacturing milk is $9.66 per hundredweight. This price is for milk of national average milkfat content of 3.67 percent or about $9.46 per hundredweight for milk of 3.5 test.

Milk production October 1977 through March 1978 was 69.6 billion pounds, less than 1 percent greater than a year earlier. Milk production in February 1978 was above year-earlier levels for the twenty-ninth consecutive month. However, in March and April milk production was below a year earlier. Commercial consumption increased 2 billion pounds over the same period a year ago due to a slight increase in consumption of fluid products and a strong increase in cheese consumption.

Purchases of dairy products by Commodity Credit Corporation (CCC) under the support program between October 1, 1977, and April 30, 1978, were 92 million pounds of butter, 7 million pounds of cheese and 160 million pounds of nonfat dry milk compared to 140 million pounds of butter, 93 million pounds of cheese and 184 million pounds of nonfat dry milk during the same period a year earlier.

PROPOSED RULE

Notice is hereby given that the Secretary of Agriculture is considering the level of price support for milk for the 1978-79 marketing year, the prices and terms of purchase by CCC of butter, cheese, and nonfat dry milk,

and other matters pertaining to the milk support program. Prior to making any of the foregoing determinations, consideration will be given to any data, views and recommendations with regard to the determinations which are submitted in writing to the Director, Procurement and Sales Division. In order to be assured of consideration, all submissions must be received by the Director not later than August 8, 1978. All written submissions made pursuant to this notice, and a copy of the draft Economic Impact Statement which discusses this proposed action will be made available for public inspection at the Office of the Director, Room 5741 South Building, during regular business hours (8:15 a.m.-4:45 p.m.).

(Sec. 201(c) and (d) of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1446): and secs. 4 and 5 of the Commodity Credit Corporation Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c).)

Signed at Washington, D.C., on June 7, 1978.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 78-16217 Filed 6-8-78; 8:45 am]

[3410-15]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed New REA Form 522, General Specification for Digital, Stored Program Controlled Central Office Equipment

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 384-3 to announce the issuance of a new REA Form 522, General Specification for Digital, Stored Program Controlled Central Office Equipment. This specification was developed to cover specific requirements for a digital class 5 central office. It contains criteria for switching, traffic, transmission, reliability and electrical protection. The effect of this action will be to standardize and to provide for uniform performance characteristics for digital central office switching equipment. On issuance of REA Bulletin 384-3, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than July 10, 1978.

ADDRESS: Persons interested in the new specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Maynard S. Knapp, Chief, Central Office Equipment Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1334, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-5773.

SUPPLEMENTARY INFORMATION: Notice is herby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 384-3. A copy of the proposed revison of REA Bulletin 384-3 and the proposed new REA Form 522 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

Dated: June 1, 1978.

C. R. BALLARD,
Assistant Administrator, Telephone.

[FR Doc. 78-15801 Filed 6-8-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[EDR-357; Docket No. 32785; Dated: June 1, 1978]

CERTIFICATED AIR CARRIERS

Accounting for Troubled Debt Restructurings, Prior Period Adjustments, and Forward Exchange Contracts

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking would update the accounting and reporting provisions of the Uniform System of Accounts and Reports for Certificated Air Carriers (USAR) to reflect generally accepted accounting principles relating to troubled debt restructurings, prior period adjustments and forward exchange contracts. This would be accomplished by: (1) Incorporating new sections in the USAR dealing with accounting and reporting for troubled debt restructurings and (2) revising the sections in the USAR relating to prior period adjustments and forward exchange contracts. These revisions would keep the USAR in conformity with generally accepted accounting principles.

DATES: Comments by July 10, 1978. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 32785, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: The Board expressed its intention in ER-948, dated November 19, 1975, to modify the USAR expeditiously to include the generally accepted accounting principles that are established by the professional organizations and governmental bodies responsible for molding accounting principles and disclosure standards for American business. The Financial Accounting Standards Board (FASB), the body primarily responsible for establishing accounting standards, recently issued three statements which we are proposing to incorporate in the USAR. Statement of Financial Accounting Standards No. 15 (FASB-15)[1] details the accounting procedures to be followed by debtors and creditors when a troubled debt restructuring occurs. Statement of Financial Accounting Standards No. 16 (FASB-16)[2] establishes new generally accepted accounting principles relating to the treatment of prior period adjustments. Statement of Financial Accounting Standards No. 20 (FASB-20)[3] amends an earlier pronouncement of the FASB by revising the accounting principles for forward exchange contracts.

ACCOUNTING BY DEBTORS AND CREDITORS FOR TROUBLED DEBT RESTRUCTURINGS

FASB-15 prescribes the accounting procedures to be followed by debtors

[1]FASB-15 is entitled "Accounting by Debtors and Creditors for Troubled Debt Restructurings" and is dated June 1977.

[2]FASB-16 is entitled "Prior Period Adjustments" and is dated June 1977.

[3]FASB-20 is entitled "Accounting for Forward Exchange Contracts" and is dated December 1977.

and creditors when they enter into a troubled debt restructuring. A troubled debt restructuring results when a creditor agrees to accept less payment than originally agreed upon because he wants to minimize the loss on his investment that could result from legal or economic reasons relating to the financial difficulties of the debtor. The most common restructurings involve (1) the full or partrial settlement of the debt by the transfer of assets or equity interests from the debtor and (2) the modification of the terms of the debt. Such modifications may include reducing the stated interest rate or accrued interest; reducing the face amount or the maturity amount of the debt; and extending the maturity date at a stated interest rate which is lower than the current market rate for new debt with similar risk. In addition, repossessions and foreclosures by the creditor are accounted for as troubled debt restructurings.

When a troubled debt restructuring involves the transfer of assets or equity interests from the debtor to the creditor in full settlement of the debt, the debtor will recognize a gain on the restructuring of debt equal to the difference between the carrying amount of the payable and the fair value of the assets or equity interests transferred. The debtor may also recognize a gain or a loss on the transfer of assets which is equal to the difference between the book value and the fair value of the assets. The creditor will recognize a loss on the restructuring of debt which is determined by the difference between the recorded investment in the receivable and the fair value of the assets or equity interests received.

When a troubled debt restructuring involves a modification of the terms of the debt or a combination of a partial settlement by the transfer of assets or equity interests and a modification of the terms of the debt, neither the debtor nor the creditor will, in most cases, recognize a gain or a loss on the restructuring.

Before the issuance of FASB-15, there were no generally accepted accounting principles promulgated by an authoritative body describing the accounting procedures to be followed when a troubled debt restructuring occurs. Consequently, the USAR does not contain regulations on this topic. We, therefore, propose to add a new section which would incorporate the accounting principles outlined in FASB-15.

Prior Period Adjustments

In conformity with the generally accepted accounting principles in effect before the issuance of FASB-16, the Board's accounting regulations currently provide for the exclusion of certain transactions from the calculation of net income. These transactions are classified as prior period adjustments and are accounted for as adjustments to the "retained earnings" account. The current regulations specify that the following criteria must be met before a transaction is accounted for in this way. (1) The item is material in amount and specifically identified with and directly related to business activities of particular previous periods; (2) it is not attributable to economic events occurring after the date of the financial statements for the previous period; (3) it is dependent primarily upon determinations by persons other than management; and (4) it was not susceptible of reasonable estimation before such determination.

FASB-16 greatly restricts the kind of transactions that may be treated as prior period adjustments. Under this latest pronouncement, except for adjustments related to previous interim periods of the current fiscal year, only corrections of errors in earlier financial statements and adjustments resulting from the tax benefits of preacquisition loss carryforwards of purchased subsidiaries will qualify as prior period adjustments and, thus, be excluded from the calculation of net income.

FASB-16 additionally establishes special treatment for certain adjustments which are related to previous interim periods of the current fiscal year and meet the following criteria. The adjustment must be an adjustment or settlement of litigation or similar claims, of income taxes or of renegotiation proceedings that (1) has a material effect on income, (2) is specifically identified with and directly related to business activities of specific previous interim periods of the current fiscal year, and (3) became reasonably estimable in amount during the current interim period.

These adjustments would be accounted for under FASB-16 as follows, provided that they occur in other than the first interim period of the current fiscal year: (1) Any portion related to the current interim period shall be included in the determination of net income for that period; (2) the affected previous interim periods of the current fiscal year shall be restated to include the portion of the adjustment related to those periods in the determination of net income; and (3) any portion of the item related to previous fiscal years shall be included in the determination of net income in the first interim period of the current fiscal year.

We propose to modify the Board's accounting regulations to reflect FASB-16 in the accounting for prior period adjustments, with the following exception. We have tentatively determined that requiring the submission of amended CAB Form 41 schedules to reflect adjustments made to previous interim periods of the current fiscal year would be unduly burdensome to the carriers. Therefore, we are proposing, in lieu of resubmission, to require carriers to include the adjustment in the determination of net income for the current interim period. If the interim period is a period in which monthly reports are filed, a statement showing the effects of the adjustment on the current quarter and previous quarters should be attached to the submission. When the quarterly schedules are filed, the total adjustment should again be shown in the determination of net income for the period, and the effects of the adjustment on both the current quarter and the previous quarters should be disclosed on Schedule P-2 "Notes to CAB Form 41 Report." This would have the effect of not only relieving the carriers from an increased reporting burden, but also of relieving the Board's staff from the substantial administrative burden of processing amended filings.

Accounting for Forward Exchange Contracts

The FASB defines a forward exchange contract as "an agreement to exchange at a specified future date currencies of different countries at a specified rate." The Board's accounting regulations specify three conditions which must be met before a gain or a loss on a forward exchange contract which is intended to be a hedge of an identifiable foreign currency commitment may be deferred and included in the measurement of the dollar basis of the related foreign currency transaction. These are: (1) The life of the forward contract extends from the foreign currency commitment date to the anticipated transaction date or a later date; (2) the forward contract is denominated in the same currency as the foreign currency commitment and for an amount that is the same or less than the amount of the foreign currency commitment; and (3) the foreign currency commitment is firm and uncancelable. FASB-20 revises the second condition by allowing the deferral of gains and losses on those portions of the forward exchange contracts which are in excess of the related commitment to the extent that the forward contract is intended to provide a hedge of the commitment on an after-tax basis. Accordingly, we propose to amend the Board's accounting regulations to reflect the provisions of FASB-20.

Period for Comments

Thirty days will be alloted for interested parties to comment on this notice of proposed rulemaking. We anticipate that comments will be limited to those of a technical accounting nature addressed to perfecting the

changes proposed. The proposed rule does not involve any substantive policy changes and is, therefore, expected to be noncontroversial. We believe that, in such circumstances, 30 days will be sufficient.

PROPOSED RULE

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend the Table of Contents of the Uniform System of Accounts and Reports by adding a new Section 2-21 to read in pertinent part as follows:

Sec.

* * * * *

2-20 Accounting for leases.
2-21 Accounting for troubled debt restructurings.

* * * * *

2. Amend Section 2—General Accounting Policies as follows:

A. By revising paragraph (g) of Section 2-3 to read in pertinent part as follows:

Sec. 2-3 Transactions in foreign currencies.

* * * * *

(g) * * *
(1) * * *
(2) * * *
(i) * * *

(ii) The forward contract is denominated in the same currency as the foreign currency commitment,

* * * * *

B. By revising paragraph (f) of Section 2-7 to read as follows:

Sec. 2-7 Extraordinary items, discontinued operations, prior period adjustments, and accounting changes.

* * * * *

(f) Prior adjustments are classified as those affecting previous fiscal years and those affecting previous interim periods of the current fiscal year.

(1) Corrections of errors in earlier financial statements and adjustments resulting from the tax benefits of preacquisition loss carryforwards of purchased subsidiaries may be treated as prior period adjustments of previous fiscal years. They are reflected as adjustments to the opening balance of retained earnings.

(2) Adjustments which are related to previous interim periods of the current fiscal year are adjustments or settlements of litigation or similar claims, of income taxes or of renegotiation proceedings. The total adjustment shall be included in the determination of net income for the current interim period. If the interim period is a period in which monthly reports are filed, a statement showing the effects of the adjustment on the current quarter and previous quarters should be attached to the submission. When the quarterly schedules are filed, these effects should again be stated on Schedule P-2, Notes to CAB Form 41 Report.

C. By adding a new Section 2-21 to read as follows:

Sec. 2-21 Accounting for troubled debt restructurings.

a. Accounting by debtors

(1) A gain on the restructuring of debt shall be recognized when the debtor transfers assets to the creditor in full settlement of the debt and shall equal the difference between the carrying amount of the payable and the fair value of the assets transferred. A gain or loss on the transfer of assets measured by the difference between the fair value and the book value of the assets transferred shall be recognized and recorded in account 88.6 Capital Gains and Losses—Other.

(2) A gain on the restructuring of debt shall be recognized when the debtor transfers an equity interest to the creditor in full settlement of the debt. The gain shall be equal to the amount that the carrying amount of the payable exceeds the fair value of the equity interest transferred.

(3) The modification of the terms of the debt in a troubled debt restructuring may take any or a combination of the following forms:

(i) Reduction of the stated interest rate or accrued interest;

(ii) Reduction of the face amount or the maturity amount of the debt; or

(iii) Extension of the maturity date at a stated interest rate which is lower than the current market rate for new debt with similar risk.

When the terms of the debt are modified so that the total future principal and interest payments are not less than the recorded amount of the payable, the effects of the restructuring shall be accounted for prospectively from the time of the restructuring by adjusting the effective interest rate so that it equates the present value of the future cash payments specified by the new terms with the carrying amount of the payable. If the total future principal and interest payments are less than the recorded amount of the payable, the amount of the payable shall be reduced so that it equals the total future principal and interest payments specified by the new terms and a gain shall be recognized which equals the amount of the reduction. In this case, all future principal and interest payments shall be treated as reductions of the payable and none shall be designated as interest. If the restructuring of the payable involves indeterminate future cash payments, no gain on the restructuring of the debt shall be recognized as long as the maximum total future cash payments may exceed the carrying amount of the payable.

(4) When there is a combination involving both the transfer of assets or equity interests and the modification of the terms of the debt, the carrying amount of the payable shall be reduced by the total fair value of those assets or equity interests. The difference between the fair value and the carrying amount of the assets transferred shall be recognized as a gain or loss on the transfer of assets and recorded in account 88.6 Capital Gains and Losses—Other. The remaining balance of the payable shall be accounted for as discussed in subparagraph (3) above.

(5) All legal fees and other direct costs incurred to effect a troubled debt restructuring shall be deducted when measuring the gain on restructuring, or, if no gain is recognized, they shall be included in expense for the period.

(6) Gains recognized on the restructuring of debt shall be aggregated and included in measuring net income for the period. If material, the aggregate amount, net of any tax effect, should be recorded in account 96 Extraordinary Items. If not, it should be recorded in account 88.9 Other Miscellaneous Nonoperating Credits.

(7) The following information shall be disclosed on Schedule P-2 Notes to CAB Form 41 Report for all troubled debt restructurings occuring during the current period:

(i) A description of the principal changes in terms and/or the major features of settlement for each restructuring;

(ii) The aggregate gain on restructuring of payables and the related income tax effect;

(iii) The aggregate net gain or loss on the transfer of assets;

(iv) The extent to which amounts contingently payable are included in the carrying amount of restructured payables; and

(v) The total amount contingently payable on restructured payables and the conditions under which the amounts would be payable or forgiven.

b. Accounting by creditors.

(1) A loss shall be recognized on the restructuring of debt when the debtor transfers assets to the creditor in full settlement of the debt to the extent that his recorded investment in the receivable exceeds the fair value of the assets received. The assets shall be recorded in the books of account as if they had been acquired for cash.

(2) A loss shall be recognized on the restructuring of debt when the debtor transfers an equity interest to the creditor in full settlement of the debt to the extent that the recorded invest-

ment in the receivable exceeds the fair value of the equity interest. The equity interest shall be recorded in the books of account as if it had been acquired for cash.

(3) The modification of the terms of the debt in a troubled debt restructuring may take any or a combination of the following forms:

(i) Reduction of the stated interest rate or accrued interest;

(ii) Reduction of the face amount or the maturity amount of the debt;

(iii) Extension of the maturity date at a stated interest rate which is lower than the current market rate for new debt with similar risk.

When the terms of the debt are modified so that the total future principal and interest receipts are not less than the recorded investment in the receivable, the effects of the restructuring shall be accounted for prospectively from the time of restructuring by adjusting the effective interest rate to equate the present value of the future cash receipts specified by the new terms with the recorded investment in the receivable. When the terms of the debt are modified such that the total future principal and interest receipts are less than the recorded investment in the receivable, the amount of the receivable shall be reduced so that it equals the total future principal and interest receipts specified by the new terms and a loss shall be recognized which is determined by the amount of the reduction. In this case, all future principal and interest receipts shall be treated as reductions of the receivable and none shall be designated as interest. A loss shall not be recognized on a restructuring involving indeterminate future cash receipts as long as the minimum future cash receipts specified by the new terms at least equal the recorded investment in the receivable.

(4) When the troubled debt restructuring involves both the transfer of assets or equity interests and the modification of the terms of the debt, the recorded investment in the receivable shall first be reduced by the fair value of the assets or equity interests received. The remaining portion of the receivable shall be accounted for as discussed in subparagraph (3) above.

(5) All legal fees and other direct costs incurred to effect a troubled debt restructuring shall be expensed when incurred.

(6) Losses recognized on the restructuring of debt shall be included in account 89.9 Other Miscellaneous Nonoperating Debits to the extent that they are not offset against valuation accounts, such as account 1290 Allowance for Uncollectible Accounts.

(7) The following information shall be disclosed on Schedule P-2 Notes to CAB Form 41 Report for each major category of receivables whose terms were modified in the current period such that the effective interest rate is less than the rate that the creditor would be willing to accept for a new receivable with comparable risk. The first three disclosure requirements listed below need not be followed if the effective interest rate for the modified receivable is greater than or equal to the rate that the creditor would be willing to accept for a new receivable with comparable risk:

(i) The aggregate recorded investment;

(ii) The gross interest income that would have been recorded in the period if the restructured receivables had been current according to their original terms;

(iii) The amount of interest income on the affected receivables included in net income for the period; and

(iv) The amount of any commitments to lend additional funds to debtors owing receivables whose terms have been modified in a troubled debt restructuring.

3. Amend Section 14—Objective Classification-Nonoperating Income and Expense to read in pertinent part as follows:

* * * * *

88.6 Capital Gains and Losses—Other

Record here gains or losses not required to be reported in accounts 88.3, 88.4 and 88.5 such as gains or losses on retirement of nonoperating property and equipment, investments in other than marketable equity securities, and the transfer of assets in a troubled debt restructuring.

* * * * *

88.9 Other Miscellaneous Nonoperating Credits.

Record here all credits of a nonoperating character not provided for otherwise, such as royalties from patents, gains from reacquisition and retirement or resale of debt securities issued by the air carrier, and gains resulting from troubled debt restructurings.

* * * * *

89.9 Other Miscellaneous Nonoperating Debits.

Record here all debits of a nonoperating character not provided for otherwise, such as fines or penalties imposed by governmental authorities, amortization expense attributable to capital leases recorded in balance sheet account 1795 Leased Property under Capital Leases; costs related to property held for future use; donations for charitable, social or community welfare purposes; losses on reacquired and retired or resold debt securities of the air carrier; losses resulting from troubled debt restructurings; losses on uncollectible nonoperating receivables; or accruals to allowance for uncollectible nonoperating receivables. This account shall be charged with the amortization of amounts carried in balance sheet account 1870 Property Acquisition Adjustment, unless otherwise approved or directed by the Civil Aeronautics Board.

(Sec. 204(a) and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766, as amended, (49 U.S.C. 1324(a), 1377)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16063 Filed 6-8-78; 8:45 am]

[6320-01]

[14 CFR Part 371]

[Docket 32242]

ADVANCE BOOKING CHARTERS

JUNE 1, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final Notice of Oral Argument.

SUMMARY: On March 17, 1978, the Board issued a Notice (EDR-348, SPDR-64, 43 FR 11215) proposing to replace most of the existing charter forms with a simplified form known as a "Public Charter." Comments were requested by April 26, 1978, with replying comments due May 16, 1978. Because of the scope of the proposed changes and their importance to the air transportation industry, the Board decided to hold an oral argument on the issues set forth in that proposal.

DATES: Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before June 12, 1978, together with the name of the person who will represent it at the argument. Oral argument is scheduled for 10 a.m. (local time), June 30, 1978.

ADDRESSES: Send request for participation in the oral argument to: The Secretary, Civil Aeronautics Board, Office of the Secretary, 1825 Connecticut Avenue NW., Washington, D.C. 20428; the oral argument will be held at: The Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., in Room 1027.

FOR FURTHER INFORMATION CONTACT:

Phyllis T. Kaylor, Secretary, Civil Aeronautics Board, Office of the Secretary, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5068.

SUPPLEMENTARY INFORMATION: Notice is hereby given, pursuant to the

provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on June 30, 1978, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. A tentative Notice was issued on May 24, 1978, and published Tuesday, June 6, 1978, 43 FR.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-15951 Filed 6-8-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 16, 20, and 812]

[Docket No. 76N-0324]

MEDICAL DEVICES

Hearing on Proposed Tentative Final Regulation Relating to Investigational Device Exemptions

AGENCY: Food and Drug Administration.

ACTION: Notice of hearing.

SUMMARY: This is an announcement that a public hearing will be held on the tentative final regulation for investigational device exemptions. The Commissioner will consider the administrative record of the hearing, along with all comments and other information received, in preparing a final regulation.

DATES: Written notices of appearance should be filed by July 10, 1978. The hearing will be held on August 7, 1978.

ADDRESSES: Written notices of appearance (identified with the docket number found in brackets in the heading of this document) should be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. The hearing will be held from 9 a.m. to 5 p.m. in Conference Room E, 3d Floor, B Wing, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Frank J. Morlock, Bureau of Medical Devices (HFK-70), Food Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295) amending the Federal Food, Drug, and Cosmetic Act (the act) became law on May 28, 1976. Section 520(g) of the amended act (21 U.S.C. 360j(g)) requires the Secretary of Health, Education, and Welfare to prescribe, by regulations, procedures and conditions under which devices intended for human use may, upon application, be granted an exemption from otherwise applicable requirements of the act to permit investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of the devices. Regulations were proposed in the FEDERAL REGISTER of August 20, 1976 (41 FR 35282). Because of the intense interest demonstrated by the comments on the proposal, the Commissioner notified all persons who had commented on the proposal that the final regulation would be reproposed as a tentative final regulation with further opportunity for comment, and that a public hearing would be held on the tentative final regulation.

The Commissioner issued the tentative final regulation on procedures for investigational device exemptions in the FEDERAL REGISTER of May 12, 1978 (43 FR 20726). The tentative final regulation explains the applicability of investigational controls, prescribes the format and content of applications for exemption, partially defines the duties of sponsors, and states the requirements for obtaining written informed consent of human subjects. The Commissioner is especially interested in obtaining comments from consumers and consumer advocates on the tentative final regulation.

Accordingly, the Food and Drug Administration (FDA) announces that a public hearing on its tentative final regulation on procedures for investigational device exemptions will be held August 7, 1978 from 9 a.m. to 5 p.m. in Conference Room E, 3d Floor, B Wing, 5600 Fishers Lane, Rockville, Md. 20857. This public hearing will be chaired by David Link, Director, Bureau of Medical Devices, Food and Drug Administration. The tentative final regulation has the legal effect of a reproposal and represents an extensive revision of the August 20, 1976 proposal.

To expedite review of requests to participate in the hearing, the Commissioner has limited the period for submitting notices of appearance to the first 30 days after publication of this notice. After reviewing the comments and the notices, the Commissioner will schedule each appearance and notify each person who submitted a notice of appearance of the time, date, and place of the hearing and the time allotted for each appearance. The procedures that govern the hearing are set forth in 21 CFR Part 15.

Interested persons who wish to participate may, on or before July 10, 1978, submit a notice of appearance with the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. All notices submitted should be identified with the Hearing Clerk docket number found in brackets in the hearing of this notice and should contain the name, address, telephone number, and any business affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the appropriate time requested for the presentation.

Groups having similar interests are requested to consolidate their comments and present them through a single representative. The Commissioner may require joint presentations by persons with common interests. The Commissioner will allocate the time available for the hearing among the persons who properly file a notice of appearance.

The comment period on the tentative final investigational device exemption regulation ends on September 11, 1978. The administrative record of the hearing will remain open until the end of the comment period on the tentative final regulation to permit submission of additional written comments and views concerning matters discussed during the hearing.

Dated: June 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-15963 Filed 6-8-78; 8:45 am]

[4110-03]

[21 CFR Part 201]

[Docket No. 78N-0128]

PROPRIETARY AND ESTABLISHED NAMES ON PRESCRIPTION DRUG LABELS

Withdrawal of Proposal and Termination of Rulemaking Proceeding

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposal.

SUMMARY: The Food and Drug Administration is withdrawing a proposal concerning the relationship of proprietary and established names on prescription drug labels, labeling, and advertisements. An excessive amount of time has elapsed since the proposal was published and it is being withdrawn for reconsideration.

EFFECTIVE DATE: June 9, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a proposal published in the FEDERAL REGISTER of February 21, 1968 (33 FR 3234), to require specific relationships between proprietary and established names on labels, labeling, and advertisements of prescription drugs. This proposal would have amended Part 201 (21 CFR Part 201) (formerly 21 CFR Part 3 prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13996)) to provide guidance to manufacturers in preparing labels, labeling, and advertisements for prescription drugs.

Because of the excessive time that has elapsed since the proposal was published, the Commissioner has decided to withdraw the proposal pending his reconsideration of the matter. If he concludes that action is required on this matter, a new proposal will be issued.

Therefore, the proposed rulemaking published in the FEDERAL REGISTER of February 21, 1968 (33 FR 3234) is hereby withdrawn.

This withdrawal is issued under authority of 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).

Dated: June 1, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-15749 Filed 6-8-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 301]

[LR-7-75]

COLLECTION OF CHILD SUPPORT

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section 6305 of the Internal Revenue Code of 1954, relating to the collection of child support obligations by the Internal Revenue Service. The addition of section 6305 to the Code was made by the Social Services Amendments of 1974.

DATES: Written comments and requests for public hearing must be delivered or mailed by August 7, 1978. The statutory amendments are effective July 1, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-7-75), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Charles C. Saverude of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, LR-7-75, 202-566-3394, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the regulations on Procedure and Administration (26 CFR Part 301) under section 6305 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 101(b)(1) of Part B of the Social Services Amendments of 1974 (88 Stat. 2358) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

CHILD SUPPORT COLLECTION

Section 6305 was added to the Code to provide for the collection of certain child support obligations by the Internal Revenue Service. The Internal Revenue Service must receive from the Secretary of Health, Education, and Welfare or his delegate a certified fixed amount of delinquent court ordered child support in order to initiate assessment and collection procedures for the amount. The certified amount is assessed and collected in the same manner, with the same powers and subject to the same limitations, except as provided to the contrary by the statute, as if the amount were an employment tax, the collection of which is jeopardized by delay. Normal procedures for collection of tax do not require a waiting period to collect the amount of tax due subsequent to assessment. However, the collection procedure for certified amounts is limited by a 60-day stay of collection after notice and demand in the case of certain first assessments against an individual.

Section 6305 of the Code allows for the levy upon certain property for the payment of certified amounts which is normally exempt from levy for the collection of taxes. However, any overcollection of funds for child support obligations as a result of levy upon property normally exempt from levy for tax liabilities may not be credited toward any outstanding tax obligation but must be fully refunded to the individual. Certain amounts of salary, wages and other income of an individual which are being withheld therefrom in garnishment for the support of minor children are exempt from levy.

Section 6305 prohibits the assessment and collection of interest and penalties. However, the normal penalties for failure to surrender property subject to levy and for tender of bad checks under section 6332 (c)(2) and 6657, respectively, of the Code shall be collected and retained by the United States.

The period of limitations prescribed under section 6502 of the Code for the collection of taxes apply to the collection of certified amounts. The period of limitations is tolled by recertification of certified amounts and the period begins to run anew with respect to the recertified amount. The date of assessment will govern the priority of collection of certified amounts as against liens for taxes and additional liens for certified amounts, the earlier assessed amount having priority over the later.

Section 6305 of the Code denies jurisdiction of any action in any court established under Article I or Article III of the constitution (with the exception of courts established for the District of Columbia) brought to restrain or review the assessment and collection of certified amounts by the Secretary or his delegate. In addition, the Secretary or his delegate may not subject to review the certified amount to be assessed and collected. However, an individual is not precluded from instituting an administrative, legal or equitable suit against the State to determine his liability for any amount assessed against him and collected or to recover any such amount collected from him pursuant to section 6305.

The IRS shall make reasonable and diligent efforts to collect the certified amounts pursuant to subtitle F of the Code as if such amounts were taxes. However, the provisions of subtitle F with respect to assessment and collection of certified amounts do not apply where such provisions are clearly inappropriate to and incompatible with the collection of certified amounts generally.

COMMENTS AND REQUEST FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Charles C. Sa-

verude of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 301 are as follows. A new § 301.6305-1 would be added immediately after § 301.6304, to read as follows:

§ 301.6305-1 Assessment and collection of certain liability.

(a) *Scope.* Section 6305 (a) requires the Secretary of the Treasury or his delegate to assess and collect amounts which have been certified by the Secretary of Health, Education, and Welfare as representing delinquent court ordered child support obligations of an individual. These amounts are to be collected in the same manner and with the same powers exercised by the Secretary of the Treasury or his delegate in the collection of an employment tax which would be jeopardized by delay. However, where the assessment is the first assessment against an individual for a delinquent amount of court ordered support for a particular individual or individuals, the collection is to be stayed for a period of 60 days following notice and demand. In addition, no interest or penalities (with the exception of the penalties imposed by sections 6332 (c)(2) and 6657) shall be assessed or collected on the amounts; paragraphs (4), (6), and (8) of section 6334 (a) (relating to property exempt from levy) shall not apply; and, there shall be exempt from levy so much of the salary, wages, or other income of the individual which is subject to garnishment pursuant to a judgment entered by a court for the support of his minor children. Section 6305 (b) provides that sole jurisdiction for any action brought to restrain or review assessment and collection of the certified amounts shall be in a State court or a State administrative agency.

(b) *Assessment and collection*—(1) *General rule.* Upon receipt of a certification (or recertification) from the Secretary of Health, Education, and Welfare or his delegate, under section 452 (b) of Title IV of the Social Security Act as amended (relating to collection of child support obligations with respect to an individual), the district director or his delegate shall assess and collect the certified amount (or recertified amount). Except as provided in paragraph (c) of this section, the amount so certified shall be assessed and collected in the same manner, with the same powers, and subject to the same limitations as if the amount were as employment tax the collection of which would be jeopardized by delay. However, the provisions of subtitle F with respect to assessment and collection of taxes shall not apply with respect to assessment and collection of a certified amount where such provisions are clearly inappropriate to, and incompatible with, the collection of certified amounts generally. For example, section 6861 (g) which allows the Secretary or his delegate to abate a jeopardy assessment if he finds a jeopardy does not exist will not apply.

(2) *Method of assessment.* An assessment officer appointed by the district director pursuant to § 301.6203-1 to make assessments of tax shall also make assessments of certified amounts. The assessment of a certified amount shall be made by the assessment officer signing the summary record of assessment. The date of assessment is the date the summary record is signed by the assessment officer. The summary record, through supporting records as necessary, shall provide—

(i) The assessed amount;

(ii) The name, social security number, and last known address of the individual owing the assessed amount;

(iii) A designation of the assessed amount as a certified amount, together with the date on which the amount was certified and the name, position, and governmental address of the officer of the Department of Health, Education, and Welfare who certified the amount;

(iv) The period to which the child support obligation represented by the certified amount relates;

(v) The State in which was entered the court order giving rise to the child support obligation represented by the certified amount;

(vi) The name of the person or persons to whom the child support obligation represented by the certified amount is owed; and

(vii) The name of the child or children for whose benefit such child support obligation exists.

Upon request, the individual assessed shall be furnished a copy of pertinent parts of this assessment which set forth the information listed in subdivisions (i) through (vii) of this paragraph (b)(2).

(3) *Supplemental assessments and abatements.* If any assessment is incomplete or incorrect in any material respect, the district director or his delegate may make a supplemental assessment or abatement but only for the purpose of completing or correcting the original assessment. A supplemental assessment will not be used as a substitute for an additional assessment against an individual.

(4) *Method of collection.* (i) The district director or his delegate shall make notice and demand for immediate payment of certified amounts. Upon failure or refusal to pay such amounts, collection by levy shall be lawful without regard to the 10-day waiting period provided in section 6331(a). However, in the case of certain first assessments, paragraph (c)(4) of this section provides a rule for a stay of collection for 60 days. For purpose of collection, refunds of any internal revenue tax owed to the individual may be offset against a certified amount.

(ii) The district director or his delegate shall make diligent and reasonable efforts to collect certified amounts as if such amounts were taxes. He shall have no authority to compromise a proceeding by collection of only part of a certified amount in satisfaction of the full certified amount owing. However, he may arrange for payment of a certified amount by installments where advisable.

(5) *Credits or refunds.* In the case of any overpayment of a certified amount, the Secretary of the Treasury or his delegate, within the period of limitations for credit or refund of employment taxes, may credit the amount of the overpayment against any liability in respect of an internal revenue tax on the part of the individual who made the overpayment and shall refund any balance to the individual. However, the full amount of any overpayment collected by levy upon property described in paragraph (c)(2) (i), (ii), or (iii) of this section shall be refunded to the individual. For purposes of applying this subparagraph, the rules of § 301.6402-2 apply where appropriate.

(6) *Disposition of certified amounts collected.* Any certified amount collected shall be deposited in the general fund of the United States, and the officer of the Department of Health, Education, and Welfare who certified the amount shall be promptly notified of its collection. There shall be established in the Treasury, pursuant to section 452 of Title IV of the Social Security Act as amended, a revolving fund which shall be available to the Secretary of Health, Education, and Welfare or his delegate, without fiscal year limitation, for distribution to the States in accordance with the provisions of section 457 of the Act. Section 452(c)(2) of the Act appropriates to such revolving fund out of any moneys not otherwise appropriated, amounts equal to the certified amounts collected under this paragraph reduced by the amounts credited or refunded as overpayments of the certified amounts so collected. The certified amounts deposited shall be transferred at least quarterly from the general fund of the Treasury to the revolving fund on the basis of estimates made by the Secretary of the Treasury or his delegate.

Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred. See, however, paragraph (c)(1) of this section for the special rule requiring retention in the general fund of certain penalties which may be collected.

(c) *Additional limitations and conditions*—(1) *Interest and penalties.* No interest, penalties or additional amounts may be assessed or collected in addition to the certified amount, other than the penalty imposed by section 6332(c)(2) for failure to surrender property subject to levy and the penalty imposed by section 6657 for the tender of bad checks. Any such penalties, if collected, will not be treated as part of the certified amount and will be retained by the United States as a part of its general fund. No interest shall be allowed or paid on any overpayment of a certified amount.

(2) *Property not exempt from levy.* In addition to property not exempt from levy under section 6634(c) and the regulations thereunder, the following property shall not be exempt from a levy to collect a certified amount:

(i) Unemployment benefits described in section 6334(a)(4);

(ii) Certain annuities and pension payments described in section 6334(a)(6); or

(iii) Salary, wages, or other income described in section 6334(a)(8).

(3) *Property exempt from levy.* In addition to property exempt from levy under section 6334(a) and the regulations thereunder, other than property described in paragraph (c)(2) (i), (ii), or (iii) of this section, there shall be exempt from levy to collect a certified amount so much of the salary, wages, or other income of an individual as is withheld therefrom in garnishment pursuant to judgment entered by a court of competent jurisdiction for the support of minor children of the individual.

(4) *First assessment.* In the case of a first assessment against an individual for a certified amount in whole or in part for the benefit of a particular child or children, the collection of the certified amount shall be stayed for the period of 60 days immediately following notice and demand as described in section 6303. However, no other stay of the collection of a certified amount may be granted. Thus, the provisions of section 6863(a), relating to bonds to stay collection of jeopardy assessments, shall not apply to the collection of certified amounts.

(5) *Priority of liens.* A lien for a certified amount shall be valid as against a lien for taxes imposed by section 6321 only if the date of assessment of the certified amount precedes the date of assessment of the taxes. However, no amount collected by levy upon property described in paragraph (c)(2) (i), (ii), or (iii) of this section may be applied other than in whole or partial satisfaction of certified amounts. In the case of two liens for certified amounts, the lien for the certified amount which is first assessed shall be valid as against the lien for the certified amount which is later assessed.

(6) *Statute of limitations on collections.* The periods of limitation on collection of taxes after assessment prescribed by section 6502 shall apply to the collection of certified (or recertified) amounts. Such periods of limitation with respect to a certified amount shall terminate upon recertification of the amount, and the period of limitation prescribed by section 6502 shall then apply and commence to run with respect to the recertified amount.

(d) *Review of assessments and collections*—(1) *Federal courts.* No court of the United States established under article I or article III of the Constitution has jurisdiction of any legal or equitable action to restrain or review the assessment or collection of certified amounts by the district director or his delegate. See, however, paragraph (d)(3) of this section for the rule that the prohibition of this paragraph (d)(1) does not preclude courts established for the District of Columbia from exercising jurisdiction over certain actions.

(2) *Secretary of the Treasury.* Neither the Secretary of the Treasury nor his delegate may subject to review the assessment or collection of certified amounts in any legal, equitable, or administrative proceeding.

(3) *State courts.* This paragraph (d) does not preclude a State court or appropriate State agency, as the case may be, from exercising jurisdiction over a legal, equitable, or administrative action against the State by an individual to determine his liability for any certified amount assessed against him and collected, or to recover any such certified amount collected, under section 6305 and this section. For purposes of the preceding sentence, the term "State" includes the District of Columbia.

(e) *Internal Revenue regional service centers.* For purposes of this section, the terms "district director or his delegate" and "district director" include the director of the Internal Revenue service center or his delegate, as the case may be.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.78-15946 Filed 6-8-78; 8:45 a.m.]

[4510-27]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 70a]

PROTECTION OF INDIVIDUAL PRIVACY RECORDS

Proposed Amendment of Rules

AGENCY: Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to Department of Labor regulations on privacy to add exemptions for one new system of records under section 3 (j) and (k) of the Privacy Act.

DATE: Comments may be submitted until July 10, 1978.

ADDRESS: Send comments to Mr. Seth Zinman, Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, Room N2428, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Sofia P. Petters, 202-523-8065.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-2873 published in the FEDERAL REGISTER (42 FR 6105) of February 1, 1977, the Department of Labor published a notice of adopted rulemaking. In FR Doc. 77-22598 published in the FEDERAL REGISTER (42 FR 39997) of August 8, 1977, the Department of Labor amended 29 CFR Part 70a by amending the exemption rule. Notice is hereby given that the Secretary of Labor proposes to amend 29 CFR Part 70a by amending the exemption rule for system of records identified as:

DOL-ESA-23: Office of Workers' Compensation Programs Investigation Files.

DOL-ESA-23 will be comprised of investigatory files maintained by the Employment Standards Administration, Office of Workers' Compensation Programs, Division of Investigation. These records are exempted under subsection (j)(2) and (k)(2) of the Act.

This amendment is proposed under the authority of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a.

Signed at Washington, D.C., this 5th day of June 1978.

RAY MARSHALL,
Secretary of Labor.

Section 70a.13 of Title 29 of the Code of Federal Regulations is amended by adding paragraphs (a)(5)(vi) and (d)(7) to read as follows:

§ 70a.13 Exemptions.

(a) * * *

(5) The Department of Labor has published notice of intention to exempt the following record systems under the general exemption:

* * * * *

(vi) DOL/ESA-23 Office of Workers' Compensation Programs, Investigation Files.

(A) Purpose: The information contained in the system of records relates to activities carried out under (1) the Federal Employees' Compensation Act and related Acts, (2) the Longshoremen's and Harbor Workers' Compensation Act and related Acts, and (3) Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972. Disclosure of information would substantially compromise the effectiveness of investigations by the Office of Workers' Compensation Programs' Division of Investigation. Knowledge of such investigations would enable subjects to take action to prevent detection, conceal evidence or escape prosecution. Disclosure of information could lead to the intimidation of or harm to: informants, witnesses and their families; and could jeopardize the well-being of investigative personnel or their families.

(B) Exemption: Under the authority of subsection (j)(2) of 5 U.S.C. 552a, DOL/ESA-23 is exempted from provisions of 5 U.S.C. 552a, except for the requirements of subsections (b), (c) (1) and (2), (e) (4) (A) through (F), (e) (6), (7), (9), (10), and (11) and (i) of the Act.

* * * * *

(d) * * *

(7) DOL/ESA-23, Office of Workers Compensation Programs Investigation Files relates to investigations under (1) the Federal Employees' Compensation Act and related Acts, (2) the Longshoremen's and Harbor Workers' Compensation Act and related Acts, and (3) Title IV, Section 415 and Part C of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972. In accordance with subsection 3(k)(2) of the Act, this system is exempted from the requirements of subsections (c)(3), (d), (e)(4), (G), (H), and (I), and (f). Disclosure of information related to civil law enforcement would enable the subject of the investigation to take action to prevent detection of illegal activities and could lead to the harassment or initimidation of witnesses, informants, or their families or could do harm to the well-being of investigative personnel or their families.

* * * * *

[FR Doc. 78-16151 Filed 6-8-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

[38 CFR Part 18d]

NONDISCRIMINATION ON BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Hearing

AGENCY: Veterans Administration.

ACTION: Hearing on proposed regulations.

SUMMARY: The Veterans Administration is announcing a hearing to be held on June 26, 1978, to receive comments on its proposed regulations on nondiscrimination on basis of handicap. The proposed regulations implement section 504 of the Rehabilitation Act of 1973.

DATE: The hearing will be held on June 26, 1978, at 2 p.m.

ADDRESS: The hearing will be held at the Veterans Administration Conference Room, Main Building, Room 119, 810 Vermont Avenue, Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT:

Ms. Rosa Maria Fontanez, 202-389-3281.

SUPPLEMENTARY INFORMATION: On May 3, 1978 (43 FR 19166), the Veterans Administration published proposed regulations in Part 18d, Title 38, Code of Federal Regulations for comments in the FEDERAL REGISTER. This proposed new part which implements section 504, Pub. L. 93-112 will prohibit discrimination on basis of handicap in programs and activities receiving or benefiting from federal financial assistance.

The Veterans Administration plans to hold a public meeting to afford those agencies, groups, and individuals wishing to comment on the proposed regulations, an opportunity to present their views to the Administrator. Specific details regarding the meeting are as follows:

Time and date of meeting: 2 p.m., Monday, June 26, 1978.

Place: Veterans Administration's Conference Room, Main Building, Room 119, 810 Vermont Avenue NW., Washington, D.C. 20420.

Those persons wishing to make comments should contact Ms. Rosa Maria Fontanez, Office of Human Goals, 202-389-3281, to be scheduled to speak. Other interested persons are welcome to attend as observers up to the seating capacity of the conference room.

Single copies of the proposed regulations in print or cassette can be obtained from Michael Sullivan, Office of Human Goals, 202-389-2358.

By direction of the Administrator.

Approved: June 6, 1978.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 78-16053 Filed 6-8-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 909-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Oregon Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is today proposing to disapprove a revision to the Oregon State Implementation Plan (SIP) submitted by the State on October 6, 1977. The revision relates to the control of air pollution from grass seed field buring practices in the Willamette Valley. The revision seeks to increase the presently approved limit of 50,000 acres to 180,000 acres. EPA is proposing to disapprove the revision because it does not meet either the substantive or the procedural requirements of the Federal Clean Air Act and Federal regulations pertaining to the development, adoption and submittal of State Implementation Plans.

DATE: Comments on the proposed action must be received on or before July 10, 1978.

ADDRESSES: Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Wash. 98101. Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. State of Oregon, Department of Environmental Quality, P.O. Box 1760, Portland, Oreg. 97207.

FOR FURTHER INFORMATION CONTACT:

Clark L. Gaulding, Chief, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Wash. 98101, telephone 206-442-1230.

SUPPLEMENTARY INFORMATION: On October 6, 1977, the Oregon Department of Environmental Quality submitted revisions to Oregon Administrative Rules (OAR) Chapter 340-26-005 through 26-030, Agricultural Burning, for EPA's approval as a revision to the Oregon SIP.

BACKGROUND

In May 1972 EPA approved the Oregon SIP to attain and maintain na-

tional ambient air quality standards in the State. Part of the State's control strategy to meet the national standard for particulate matter was a total ban on open field burning in the Willamette Valley as of 1975.

In early 1975 the Oregon State Legislature determined that reasonable alternatives to open field burning were not yet available and revised the state law to implement a phase down program rather than a total ban. Under the phase down program, the maximum number of acres to be burned in 1977 was 95,000 acres and therafter for 1978 and subsequent years not more than 50,000 would be allowed to be burned annually.

The State Environmental Quality Commission then amended the State's administrative procedures to comply with the statute and both the statute and regulation was submitted for EPA's approval as SIP revisions. The phase down program was approved by EPA on April 18, 1977 (42 FR 20131).

PROPOSED CHANGES

In 1977 the Oregon Legislature again amended the State stature regarding field burning. The major changes included: (1) Increasing the maximum number of acres allowed to be burned to 195,000 in 1977 and 180,000 in 1978 and leaving it up to the Environmental Quality Commission to determine the number to be burned in subsequent years. (2) Changing the language of the previous statute so that the Commission must authorize the maximum allowable acreage "*unless* the Commission finds after hearing that other reasonable and economically feasible alternatives to the practice of annual open field burning have been developed." (ORS 468.475). Previous wording of the statute allowed maximum acreage to be authorized "*only if*" the Commission found that reasonable alternatives to open burning were not available.

On July 15, 1977 the Environmental Quality Commission amended the state administrative regulation, OAR 340-26-005 through 260-030 to comply with the 1977 statute. This regulation was then submitted for EPA's consideration as a SIP revision on October 6, 1977.

EPA reviewed the amended regulation and determined that it does not meet either the substantive of the procedural requirements of the Federal Clean Air Act and 40 CFR Part 51.

The procedural deficiencies relate to the Federal requirements for public notice and hearing of SIP revisions. The deficiencies are detailed in EPA's Rationale for Disapproval which is available for public review at the addresses listed at the beginning of this notice.

The substantive deficiencies relate to the fact that the State is proposing to relax controls on field burning (by increasing the number of acres to be burned) without providing increased control on this or other contributing sources of particulate matter to offset the increased emissions. moreover, the increased burning impacts an area which has been declared nonattainment because of recorded violations of the health-related primary ambient standard for particulate matter.

It should be noted that the State is currently preparing revisions to the SIP for all designated nonattainment areas, including portions of the Willamette Valley, as required by the Clean Air Act Amendments of 1977. The State will be submitting these revisions to EPA by January 1, 1979. these revisions are to provide for an orderly reduction in particulate emissions in order to attain the national ambient air quality standards by no later than December 31, 1982.

The problem is, then, to develop an interim control strategy for the 1978 field burning season. In a letter dated January 27, 1978, EPA returned the October 6, 1977 revision to the State of Oregon and suggested two options to the State to resolve the matter. The first was that the State adopt a new, formal SIP revision and submit it in time for EPA's approval prior to the 1978 burning season.

The second option was that a one-year control strategy to be embodied in a formal agreement between EPA and the State. This option was reiterated in an April 26, 1978 letter to the Director of the Department of Environmental Quality. The agreement, in addition to the Regional Administrator's authority to exercise prosecutorial discretion to not enforce the 50,000 acre limit if there is justification, would allow the State to implement all reasonable measures to alleviate the Willamette Valley particulate problem while also allowing the State to proceed with this year's planned field burning study in order to develop a control strategy for the years after 1978.

The State chose to develop a one-year interim control strategy rather than a formal SIP revision.

EPA has been working closely with the Environmental Quality Commission, the Department of Environmental Quality, the grass seed growers and citizens of the Eugene-Springfield area to develop such a control strategy for the 1978 burning season. The Oregon State Attorney General has indicated, however, that before an interim strategy may be implemented, the State proposal of 180,000 acres must be officially acted upon by EPA. Therefore, in order to facilitate development of the strategy, EPA is today proposing to disapprove the revision to the field burning regulation. The effect of the disapproval would be to leave in effect the statute and regulation approved by EPA on April 18, 1977 which limits the number of acres to be burned in 1978 to 50,000 acres.

EPA has prepared a Rationale for Disapproval which discusses both the procedural and substantive deficiencies of the proposed revision. The Rationale, and the State submitted revision, are available for public review at the addresses listed at the beginning of this notice. Public comments on the proposed disapproval are invited and will be accepted on or before July 10, 1980.

This notice is issued under the authority of Sections 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601).

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

1. Section 52.1976 is added as follows:

§ 52.1976 Control strategy: Particulate Matter—Portland Interstate Air Quality Control Region.

(a) Oregon Administrative Rules (OAR), Chapter 340, §§ 26-005 through 26-030, as adopted by the Environmental Quality Commission on July 15, 1977 and submitted to EPA on October 6, 1977 is disapproved since it is inconsistent with the requirements of § 51.13. The requirements of § 51.13 are not met in that the control strategy contained in the October 6, 1977 submittal is not adequate for the attainment and maintenance of the particulate matter national ambient air quality standards.

Dated: May 30, 1978.

DONALD P. DUBOIS,
Regional Administrator.

[FR Doc. 78-15969 Filed 6-8-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 909-4]

STATE AND FEDERAL ADMINISTRATIVE ENFORCEMENT OF IMPLEMENTATION PLAN REQUIREMENTS AFTER STATUTORY DEADLINES

Proposed Approval of an Administrative Order Issued by Puget Sound Air Pollution Control Agency To Scott Paper Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an administrative order issued by Puget Sound Air Pollution Control Agency (PSAPCA) to Scott Paper Company. The order requires the company to bring air emissions from its sulfite pulp mill at Everett, Washington into compliance with certain regulations contained in the federally-ap-

proved Washington State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act. If approved by EPA, the Order will constitute an addition to the SIP and will alter the rights of persons to bring judicial actions against the source for violations of the SIP. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a delayed compliance order.

DATE: Written comments must be received on or before July 10, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division M/S 517, EPA, Region X, 1200 Sixth Avenue, Seattle, Wash. 98101. The supporting material and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Kenneth D. Brooks, EPA, Region X, 1200 Sixth Avenue M/S 513, Seattle, Wash. 98101 or telephone 206-442-1387.

SUPPLEMENTARY INFORMATION: Scott Paper Co. operates a sulfite pulp mill at Everett, Wash. The order under consideration addresses emissions from five hogged wood waste ("hog fuel") boilers of the facility, which are subject to Washington Administrative Code (WAC) 18-04-070) and PSAPCA Regulation I. These regulations limit the emissions of particulate matter, and are part of the federally approved State Implementation Plan. As the source is unable to comply with these reguations at this time, the order requires final compliance with the regulations by July 1, 1979 through the addition of a baghouse to control emissions from the hog fuel boilers. The source has consented to the terms of this order and the first increment has been satisfied.

After public notice and a thirty-day comment period, the Board of PSAPCA held a public hearing on March 9, 1978, Mr. A. R. Dammkoehler, Air Pollution Control Officer for PSAPCA, gave a status report and discussed the schedule being proposed. There was no dissenting argument.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Act. If the order is approved by EPA compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violation of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Washington SIP. EPA proposes herein to approve the order because it satisfies the appropriate requirements of Section 113(d) of the Act. The elements of the appropriate paragraphs of subsection 113(d) are met in the following Variance Order Certificate issued to the Scott Paper Company by the Puget Sound Air Pollution Control Authority on March 9, 1978.

[Delayed Compliance Order No. 78-204-1; Variance Application No. 204]

SCOTT PAPER CO., EVERETT, WASH.

Whereas, the Congress of the United States amended section 113(d) of the Federal Clean Air Act by 42 U.S.C. 7401, etc. to procure the attainment of emission standards by noncomplying industrial sources in the United States and the procedure outlined is for the local air pollution agencies to prepare a "Delayed Compliance Order" which would be reviewed and approved by the Department of Ecology and the Environmental Protection Agency, and

Whereas, the Scott Paper Co., Everett, Wash. operates five hog fuel boilers that are presently in noncompliance with the emission standards and this order is being issued pursuant to section 113(d) of the Clean Air Act and RCW 70.94.155, RCW 70.94.211 and RCW 70.94.221 and regulation I of the Puget Sound Air Pollution Control Agency, and

Whereas, this order, pursuant to the Federal Clean Air Act and state law, contains a schedule for compliance, interim requirements and reporting requirements, and

Whereas, Puget Sound Air Pollution Control Agency has issued public notice of this order and of a public hearing before the Board of Directors of the Agency to consider the order, pursuant to section 113(d) of the Federal Clean Air Act and the requirements of the Washington State Implementation Plan (WSIP), and

Whereas, the Board has considered the entire record and the statements made for and against the Compliance Order and the Variance and the Board being fully advised in the premises; Makes the following:

FINDINGS

I

On September 29, 1977, the U.S. Environmental Protection Agency (EPA) issued a Notice of Violation pursuant to section 113(a)(1) of the Clean Air Act, to Scott Paper Co., upon the finding that the visual emissions from the five hog fuel boilers at Scott Paper Co. in Everett, Wash. are in violation of section 9.03 of regulation I of the Puget Sound Air Pollution Control Agency, a part of the applicable WSIP, as defined in section 110(d) of the act.

II

The observations of violations of section 9.03 of regulation I were made by air pollution inspectors employed by Puget Sound Air Pollution Control Agency and said observations are of record and on file in the office of the Puget Sound Air Pollution Control Agency.

III

The violations have extended beyond the thirtieth day after issuance of a Notice of Violation on September 29, 1977, and upon the further violations of Puget Sound Air Pollution Control Agency regulation I, section 9.03 observed on November 4 and 9, 1977; December 5, 16 and 19, 1977; January 5, 9 and 17, 1978; and February 3, 1978, by the air pollution inspectors of Puget Sound Air Pollution Control Agency.

Based upon the above findings, the Board does hereby enter the following:

ORDER

It is hereby determined that the schedule for compliance is as expeditious as practicable and that the terms of this Order are in compliance with section 113(d) of the act and are in furtherance of the public health, safety and welfare of the inhabitants of the Puget Sound area. Therefore it is hereby ordered:

1. That Scott Paper Co. will comply with Puget Sound Air Pollution Control Agency regulation I, section 9.03 in accordance with the following schedule on or before the dates specified therein:

a. Installation of a baghouse to control emissions from five hog fuel boilers.

(1) Submit notice of construction, Apr. 1, 1978.

(2) Approved by PSAPCA of notice of construction, May 1, 1978

(3) Procurement (bids), July 1, 1978

(4) Start construction, Nov. 1, 1978.

(5) Complete construction, June 1, 1978.

(6) Source in compliane, July 1, 1979.

b. Quarterly progress reports.

	Due date	*Quarter ending*
(1)	July 15, 1978	June 30, 1978.
(2)	Oct. 15, 1978	Sept. 30, 1978.
(3)	Jan. 15, 1979	Dec. 31, 1978.
(4)	Apr. 15, 1979	Mar. 31, 1979.

c. That Scott Paper Co. shall perform a source test on their hog fuel

boilers on completion of their scheduled control program. Such source tests shall be conducted in accordance with PSAPCA procedures. A copy of the source test report shall be submitted to PSAPCA.

2. That Scott Paper Co. shall comply with the following interim requirements which are determined to be the best reasonable and practicable interim system of emission reduction (taking into account the requirement of which compliance is ordered in section 1, above) and are necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with PSAPCA regulation I, section 9.03 insofar as Scott Paper Co. is able to comply during the period this Order is in effect:

a. That the emissions from the main stack of Scott's hog fuel boilers be required to meet a modified section 9.03 (b)(1) of regulation I which shall read "Darker in shade than that designated at No. 2 (40 percent density) on the Ringelmann Chart, as published by the U.S. Bureau of Mines, except that once per calendar day visual air contaminant emissions from the hog fuel boiler stack may exceed Ringelmann No. 2 (40 percent opacity) for more than 3 minutes, but not more than an aggregate of 15 minutes in any one hour."

b. That Scott Paper Co. shall take all precautions to minimize the emission of smoke and particulate matter from subject hog fuel boilers to the maximum degree practical.

3. That Scott Paper Co. is not relieved by this order from compliance with any requirements imposed by the Washington State Implementation Plan and/or the courts pursuant to RCW 70.94.710 and RCW 70.94.715 during any period of imminent and substantial endangerment to the health of persons.

4. Scott Paper Co. shall comply with the following reporting requirements specified below:

a. Emission monitoring:

(1) Maintain existing system of opacity monitoring and recording.

(2) Evaluate laser unit for continuous particulate monitoring on or before December 31, 1978.

(3) Conduct at least two source tests before December 31, 1978.

b. Reporting requirements:

(1) No later than five days after any date for achievement of an incremental or final compliance, specified in section I-A-1 of this order. Scott Paper Co. shall notify the Agency in writing of its compliance or noncompliance (state reasons for noncompliance) with the requirement. If delay is anticipated in meeting any requirement of this order, Scott Paper Co. shall immediately notify the Agency in writing of the anticipated delay and reason therefore. Notification to the Agency of any anticipated delay does not preclude the Agency from taking enforcement action.

(2) All submittals and reports pursuant to this order shall be made to:

Mr. A. R. Dammkoehler, Air Pollution Control Officer, Puget Sound Air Pollution Control Agency, 410 West Harrison Street, P.O. Box 9863, Seattle, Washington 98109, 206-344-7330.

5. Nothing in this order is to be construed, in any way, as to prevent enforcement and/or abatement action for any violation of any applicable law, rule or regulation of any other governmental agency.

6. Scott Paper Co. is hereby notified that its failure to achieve final compliance by July 1, 1979, may result in a requirement to pay a noncompliance penalty under section 120 of the act. In the event of such failure, Scott Paper Co. will be formally notified by EPA or its delegate of its noncompliance pursuant to section 120(b)(3) of the act and to any applicable regulation promulgated thereunder.

7. This order shall be terminated by the Board of Directors if it is determined on the record, after notice and hearing, that an inability to comply with PSAPCA regulation I, section 9.03 no longer exists.

8. Failure to comply with any condition and/or complete any specific action by its related date without prior written approval of the Agency, shall subject Scott Paper Co. to appropriate penalties and/or legal remedies as provided in RCW 70.94, for any violation of regulation I; provided further that this order, does not prevent the Agency, during the term of the order, from issuing to Scott Paper Co. notices of violation of any violation of regulation I.

9. This order is issued by the PSAPCA Board of Directors effective March 9, 1978, pursuant to PSAPCA regulation I, section 3.11, and RCW 70.94.141 and RCW 70.94.221, which are part of the Washington State Implementation Plan.

Passed and approved at a regular meeting of the Board of Directors of the Puget Sound Air Pollution Control Agency held this 9th day of March, 1978.

Puget Sound Air Pollution Control Agency.

GENE LOBE,
Chairman.

Attest:

A. R. DAMMKOEHLER,
Air Pollution Control Officer.

Approved as to form:

KEITH D. MCGOFFIN,
Agency Attorney.

If the order is approved by EPA, compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violation of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarily precluded.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

The provisions of 40 CFR 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of an order under Section 113(d) of the Act. In addition, Part 65 will contain sections listing or including orders issued, approved, or disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(Sec. 113(d)(2) of Clean Air Act, Pub. L. 95-95 (42 U.S.C. 7413).)

Dated: May 18, 1978.

DONALD P. DUBOIS,
Regional Administrator,
Region X.

[FR Doc. 78-16015 Filed 6-8-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 144, 175 and 176]

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM, NATIONAL DIRECT STUDENT LOAN PROGRAM, AND THE COLLEGE WORK-STUDY PROGRAM

Public Hearings on Possible Regulatory Changes

AGENCY: Office of Education, HEW.

ACTION: Notice of Public Hearings on Possible Regulatory Changes.

SUMMARY: The Office of Education announces public hearings on recommendations by a Panel of Experts on the campus-based student financial assistance programs funding process. These recommendations may affect Sections 144, 175, and 176 of the regulations on the Supplemental Educational Opportunity Grant program, National Direct Student Loan Program, and the College Work-Study

program. The Office of Education has determined that additional public participation is needed before developing the regulatory changes.

DATES AND LOCATIONS: San Francisco, Calif., July 5, 1978, beginning at 9 a.m., Fairmont Hotel, Ballroom Lounge, 950 Mason Street; Houston, Tex., July 7, 1978, beginning at 9 a.m., University of Houston, University Center, Room 252, 4800 Calhoun Boulevard; Washington, D.C., July 11, 1978, beginning at 9 a.m., Howard University, School of Social Work Auditorium, Howard Place and Sixth Street NW.; Chicago, Ill., July 13, 1978, beginning at 9 a.m., Loyola University of Chicago, Lewis Towers Campus, Georgetown Room, Rush and Pearson Streets.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack C. Reynolds, Office of the Deputy Commissioner, BSFA, ROB 3, Room 4662, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-0231.

SUPPLEMENTARY INFORMATION:

GENERAL

A Panel of Experts, appointed by U.S. Commissioner of Education last year, has completed its report on recommendations for a new funding system for these federally funded campus-based financial aid programs: Supplemental Educational Opportunity Grants, National Direct Student Loan, and College Work-Study. These recommendations are being distributed to the financial aid community and comment has been requested. In holding these scheduled hearings, we are soliciting comment on this process as we develop the final system.

These recommendations detail a new method of more equitably distributing Federal funds to postsecondary educational institutions throughout the Nation. The new process will result in more efficient use of regional Office of Education personnel to aid schools with technical problems they may have in operating their on-campus programs. Additionally, this new system will involve computerization of data formerly handled manually, resulting in more efficient use of OE central office personnel. The system will also make the application process and the accompanying student data collection a much less burdensome task for the institutions.

INSTRUCTIONS FOR COMMENTS

1. Persons interested in commenting on this matter at one of the hearings should register before the day of the hearing by writing or telephoning the person whose name is listed below as the contact person in the appropriate area. Efforts will also be made to accommodate those who register on the day of the hearing.

2. Speakers are encouraged to make available written copies of their presentations.

3. Written comments will also be accepted from those who do not wish to make oral presentations.

4. Persons who register or submit written comments should provide their names, addresses, telephone numbers, and (if appropriate) the names of the organizations they represent.

AREA CONTACT PERSONS

CHICAGO, ILL.

Dr. Donald Aripoli, U.S. Office of Education, 300 South Wacker Drive, Chicago, Ill. 60606, 312-353-2507.

HOUSTON, TEX.

Dr. Carl Hammack, U.S. Office of Education, 1200 Main Tower Building, Dallas, Tex. 75202, 214-767-3852.

WASHINGTON, D.C.

Mr. Jack C. Reynolds, U.S. Office of Education, BSFA, Room 4662, ROB 3, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-0231.

SAN FRANCISCO, CALIF.

Mr. Ernest Z. Robles, U.S. Office of Education, 50 United Nations Plaza, San Francisco, Calif. 94102, 415-556-8382.

AVAILABILITY OF MEETING RECORDS FOR PUBLIC INSPECTION

Records of the oral comments made at the meeting and of the written comments received will be available for public inspection in Room 4662, Regional Office Building Three, 7th and D Streets SW., Washington, D.C.

Dated: June 2, 1978.

ERNEST BOYER,
Commissioner of Education.

[FR Doc. 78-16155 Filed 6-8-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 87]

[SS Docket No. 78-160; FCC 78-368]

AVIATION SERVICES

Authorizing Broadcasts by Aircraft Radio Stations on Certain Frequencies in Accordance With FAA Recommended Traffic Advisory Practices

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: This Notice proposes that the rules be amended to specifically authorize "broadcasts in the blind" by aircraft radio stations on certain frequencies, in accordance with FAA recommended traffic advisory practices. This action was initiated as a result of a request by the FAA to review its recommended communications procedures at nontower airports for compliance with FCC regulations. The proposed rule is intended to clarify any existing uncertainty regarding the compliance of these procedures with the Commission's rules.

DATES: Comments must be received on or before July 14, 1978, and Reply Comments must be received on or before July 24, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: May 31, 1978.

Released: June 9, 1978.

By the Commission: Commissioners Ferris, Chairman; and Brown absent.

In the matter of amendment of Part 87 of the rules to specifically authorize broadcasts by aircraft radio stations on certain frequencies in accordance with FAA recommended traffic advisory practices, SS Docket No. 78-160.

1. Notice of proposed rulemaking is hereby given.

2. The Commission has received a letter from the Federal Aviation Administration (FAA) requesting that we review FAA recommended airport traffic advisory practices at nontower airports, for compliance with FCC regulations. The current "Airman's Information Manual" describes procedures to be followed for advisory purposes at airports without airdrome control stations (control towers). These communications procedures have been recommended by the FAA since the issuance of Advisory Circular AC No. 90-42 in December of 1968. The FAA indicates that recently there has been some question as to whether there may possibly be a conflict between the subject communications procedures and FCC rules. In the event that it is determined that a conflict does exist, FAA requested that the Commission initiate appropriate rulemaking action to provide for the continuation of these recommended advisory procedures.

3. The recommended aeronautical communications practices to which our attention has been drawn involve the transmission of an aircraft's position and other pertinent advisory information when it is inbound to or outbound from an airport not served by control tower and, additionally, the airport has (1) a nonfunctioning FAA flight service station (FSS); or (2) no FSS facility and a nonfunctioning aeronautical advisory station

(unicom), or (3) no FSS facility and no unicom. The frequency utilized in the first instance is the assigned FSS frequency 123.6 MHz; in the second, the unicom frequency 122.8 MHz;[1] and in the third, the multicom frequency 122.9 MHz.[1] The recommended procedure essentially calls for the pilot of an inbound aircraft to transmit his position and intentions about five miles from the airfield and follow this up with appropriate position calls on the downwind, base and final legs in the landing pattern. When outbound the pilot transmits his position and intentions prior to taxiing and before taxiing on to the runway for takeoff. We also note that at an airfield with a nonoperating control tower, the FAA recommends similar traffic advisories be transmitted on the assigned control tower frequency. The FAA believes that these communications practices reduce aircraft collision potential around airports without an operating control tower by augmenting the primary method of collision avoidance, i.e., visual alertness, with audio alertness.

4. These traffic advisory broadcasts recommended by the FAA are not considered to be in conflict with FCC regulations. Such "broadcasts in the blind" by aircraft radio station are viewed as communications necessary to the safe operation of aircraft within the meaning of Rule 87.181. The Commission's rules, however, do not specifically provide for the subject aircraft station transmissions. This apparently has lead to confusion on the part of some members of the flying public and the resulting concern of the FAA.

5. The aviation radio service is primarily designed to provide a safety system for all aircraft users. Basically communications are limited to the needs of safe and expeditious aircraft operation. The assigned frequencies are shared among all users. The system is designed so that all pilots and concerned ground personnel will be aware of aircraft in the vicinity and, accordingly, act in the best interests of safety and the expeditious operation of aircraft. Uncertainty about advisory communications may result from a decision of the Review Board[2] which is based on the conclusion that the disclosure and use by third persons of communications between an aeronautical advisory station and aircraft is an "unauthorized interception" of communications within the meaning of section 605 of the Communications Act. Among other things, section 605 prohibits persons not so authorized from divulging or using for their own or another's benefit radio communications which they have intercepted. Radio communications which are broadcast or transmitted for the use of the general public are specifically excluded from the applicability of the section. Therefore, section 605 of the Communications Act does not apply to the type of aeronautical communications which are transmitted for the use of members of the general public in the area. To hold otherwise would lead to absurd results and impair aviation safety.

6. Therefore, in light of existence of some confusion and uncertainty as to the legality of aircraft stations "broadcasting in the blind" in accordance with FAA recommended traffic advisory practices, and the applicability of Section 605 of the Communications Act to such aviation communications, we believe the Commission's rules should be clarified. Accordingly, we propose to amend §§ 87.181 and 87.201 to specifically indicate that aircraft stations may transmit pertinent advisory information on certain frequencies for the benefit and use of other stations in the aeronautical mobile service lawfully monitoring these frequencies, in accordance with FAA recommended traffic advisory practices.

7. the proposed amendment to the Commission's rules, as set forth below, is issued pursuant to the authority contained in sections 4(i) and 303 (b) and (r) of the Communications Act of 1934, as amended.

8. Pursuant to the applicable procedures set forth in section 1.415 of the Commission's rules, interested persons may file comments on or before July 14, 1978, and reply comments on or before July 24, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

9. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rulemaking, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 87 of Chapter I of Title 47 of the code of Federal Regulations is amended as follows:

In Part 87—Aviation Services:

1. Section 87.181 is amended by adding a sentence at the end of the paragraph, to read as follows:

§ 87.181 Scope of service.

* * * However, aircraft stations may transmit pertinent advisory information on the appropriate air traffic control, aeronautical advisory or aeronautical multicom frequency for the benefit and use of other stations in the aeronautical mobile service lawfully monitoring these frequencies, in accordance with FAA recommended traffic advisory practices.

2. Section 87.201 is amended by adding two sentences to the end of subparagraphs (c) and (d), to read as follows:

§ 87.201 Frequencies available.

* * * * *

(c) * * * In addition, private aircraft stations may utilize these frequencies to transmit pertinent advisory information in accordance with FAA recommended traffic advisory procedures, for the benefit and use of other stations lawfully monitoring such frequencies. The recommended transmissions on these frequencies are permitted when inbound to or outbound from an airport that does not have an airdrome control station (control tower) or an FAA flight service station, and the aircraft is unable to establish radio contact with the advisory station located on the landing area.

(d) * * * In addition, private aircraft stations may utilize these frequencies to transmit pertinent advisory information in accordance with FAA recommended traffic advisory practices, for the benefit and use of other stations lawfully monitoring such frequencies. The recommended transmissions on these frequencies are permitted when inbound to or outbound from an airport that does not have an airdrome control station (control tower), an FAA flight service station or an aeronautical advisory station located at the landing area.

* * * * *

[FR Doc. 78-16029 Filed 6-8-78; 8:45 am]

[1] Docket No. 20123, released April 15, 1977, and published in the FEDERAL REGISTER April 20, 1977, at 42 FR 20469, amended the Commission's rules to, among other things, make available additional unicom and multicom frequencies. FAA intends to amend the Airman's Information manual to reflect these changes in the next printing.

[2] *Roberts Flying Service, Inc.*, 30 FCC 2d 823 (1971).

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1124]

[Ex Parte No. 227 (Sub-No. 1]

REGULATIONS GOVERNING THE ADEQUACY OF INTERCITY RAILROAD PASSENGER SERVICE

Adequacy of Intercity Rail Passenger Service

AGENCY: Interstate Commerce Commission.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations are for the purpose of insuring adequate services and facilities for handicapped persons traveling as intercity rail passengers. These regulations apply to all carriers providing such services. They are substantially identical to those being contemporaneously promulgated by the United States Department of Transportation under Section 504 of the Rehabilitation Act of 1973.

DATES: Written comments are invited from other Federal agencies and the public. They must be received on or before September 7, 1978. Copies of the comments to the corresponding DOT sections will be accepted provided they also refer to the appropriate section of the Commission's proposed regulations. A hearing may be held in conjunction with DOT's hearing on its proposed regulations on July 26, 1978, or a separate hearing may be held at a time and place to be subsequently announced, if warranted.

ADDRESS: An original and three copies of the comments should be sent to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Edward J. Schack, Acting Deputy Director, Office of Proceedings, Section of Finance, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7245.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Congress declared the National Policy to be that "elderly and handicapped persons have the same rights as other persons to utilize mass transportation facilities and services * * *" 23 U.S.C. 142 note. 88 Stat. 2282. In that statute Congress also indicated that special efforts should be made in the planning, design, construction and operation of those facilities so that elderly and handicapped persons will have access to public transportation.

Under section 801 of the Rail Passenger Service Act, this Commission may establish rules and regulations to insure that adequate services and facilities will be provided to users of intercity rail passenger service. We believe our regulations should provide for adequate services and facilities for all passengers, including those who are handicapped.

Under section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112) the Department of Transportation (DOT) also has responsibilities for issuing regulations in this area. In order to minimize the possibility of conflicting regulations and to ease the burden on the parties who will be participating in these proceedings, this agency and DOT are coordinating our efforts regarding regulations to insure adequate services and facilities for handicapped persons.

Ex Parte No. 277 (Sub-No. 1) was originally reopened by an order served May 26, 1977, on petition filed by the Kentucky Easter Seal Society for Crippled Children and Adults, Inc. (Easter Seal). After investigation of this matter and consultation with DOT, this Commission discontinued the rulemaking by order served November 22, 1977. The order discontinued this proceeding indicated that a more comprehensive rulemaking would be forthcoming. The proposed regulations announced in this notice will reinstitute that proceeding.

The majority of the proposed regulations are identical to DOT's proposals. There are, however, important differences. The DOT regulations apply to "recipients" ours apply to "carriers." That difference may be important in certain instances because DOT recipients receive Federal funds while carriers who are not recipients do not. Where the DOT proposed regulations refer to recipients that term should be read as carriers for purposes of our regulations. When our proposed regulations differ from those of DOT in significant respects, we have explained the reasons why we believe a difference is warranted. The italicized portion of the regulations denote the differences.

We have also included an alternative proposal for the facility regulations, which we would appreciate comments on. Any parties wishing to file comments are requested to discuss the reasonableness of the specific numbers or time frames set forth in the proposed regulations as well as the general terms involved. In order to ease the burden on parties wishing to file comments, they may file with this Commission the relevant comments they submit to DOT provided such comments identify the specific provision of the Commission's proposed regulations to which they are addressed.

SUMMARY OF PROPOSED REGULATIONS

The proposed regulations are divided into 4 basic sections: definitions, facilities, equipment, and services.

The additional definitions are for the purpose of defining a handicapped person. They would be added to the present definitional section in the Adequacy of Service Regulations 49 CFR 1124.1.

The proposed regulations would require all new fixed facilities used in providing intercity passenger service to be designed and constructed so as to be "accessible" to handicapped persons. In addition, the rules would require certain modifications in existing facilities.

The equipment section sets forth a minimum accessibility standard for railroad passenger cars. It also sets a minimum standard for accessible cars per train to be achieved within 3 years, and requires newly purchased cars to be "accessible."

The final section sets forth the minumum service standards carriers would be required to provide to handicapped persons. It covers services in the station and on the train, and includes access in boarding and detraining.

It is hereby proposed to amend part 1124 of Title 49 of the Code of Federal Regulations as set forth below.

By the Commission.

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

1. It is proposed that 49 CFR 1124.1 is amended by adding new paragraphs (j) through (n) to read as follows:

§ 1124.1 Definitions.

* * * * *

(j) "Handicapped person" means any person who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment.

(k) "Physical or mental impairment" means (1) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or phychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; mental retardation; emotional illness; drug addiction; and alcoholism.

(m) "Has a record of such an impairment" means has a history of, or has been classified, or misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

(n) "Is regarded as having an impairment" means (1) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a carrier as constituting such a limitation; (2) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (3) has none of the impairments defined in paragraph (*k*) of this section but is treated by a carrier having such an impairment.

2. It is proposed that 49 CFR 1124.12 is amended by adding a new paragraph (e) to read as follows:

§ 1124.12 Consist of stations.

* * * * *

(e) *Fixed Facilities.* (1) New Facilities. (i) Every fixed *transportation* facility or part of *such* facility, including every station, terminal, building or other facility *used by the traveling public*—the intended use of which will require *that such fixed facility* be accessible to the public—shall be designed and constructed in accordance with the *standards in the "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped, Number A117.1-R 1971," approved by the American National Standards Institute Inc. (ANSI).* The ANSI standards *are incorporated by reference in this part.* (See DOT section 27.73(a)(1)(i).)

(ii) Where there is ambiguity or contradiction between the definitions and the standards used by the ANSI and the definitions and the standards used *by the Commission,* the ANSI terms should be interpreted in a manner which will make them consistent with the *Commission's standards.* If this cannot be done, *the Commission definition or standard* will prevail. (See DOT § 27.73(a)(1)(i).)

(iii) In addition to the standards referred to in paragraph (i) of this section, the following standards also apply to rail facilities covered by *paragraph* (i). (Same as DOT § 27.73(a)(1)(ii).)

(A) *Station Circulation and Flow.* Handicapped persons shall be able to locate and enter the station. The basic station design shall permit efficient movement of handicapped persons while at the same time giving consideration to their convenience, comfort, and safety. The design, especially concerning the location of elevators, escalators, and similar devices, shall minimize any extra distance that wheelchair users or other persons unable to climb steps must travel, compared to non-handicapped persons, to reach ticket counters, baggage handling areas, and boarding locations. (Same as DOT § 27.73 (a)(1)(ii)(A).)

(B) *Ticketing.* The ticketing system shall be designed to provide the handicapped with the opportunity to use the primary fare collection area to obtain ticket issuance and make fare payment. (Same as DOT § 27.73 (a)(1)(ii)(C).)

(C) *Baggage Check-in and Retrieval.* Baggage areas shall be accessible to handicapped persons. The facility shall be designed to provide for efficient handling and retrieval of baggage by all persons, *where baggage handling and retrieval is required by § 1124.13.* (Same as DOT § 27.73 (a)(i)(ii)(D).)

(D) *Waiting Area/Public Space.* As the major public area of the rail facility, the environment in the waiting area/public space should give the handicapped person confidence and security in using the facility. The space shall be designed to accommodate the handicapped by providing clear directions about how to use all passenger facilities. (Same as DOT § 27.73 (a)(1)(ii)(J).)

(E) *Public Services.* Public service facilities, such as public toilets, drinking fountains, travelers aid and first aid medical facilities, shall be designed in accordance with ANSI standards. (Same as DOT § 27.73(a)(1)(ii)(L).)

(F) *Station Information.* Station information systems shall take into consideration the needs of handicapped persons. The primary information mode shall be visual—words and letters, or symbols using lighting and color coding. Stations shall also have facilities giving spoken information and in braille or information available by touch. (Same as DOT § 27.73(a)(1)(ii)(K).)

(G) *Telephones.* Wherever there is more than one public telephone in stations and terminals, at least one clearly marked telephone shall be equipped with a volume control or sound booster device, and with a device which makes telephone communication possible for persons wearing hearing aids. (Same as DOT § 27.73(a)(1)(ii)(F).)

(H) *Teletypewriter.* Where *a carrier* does not make available a toll-free reservation number with teletypewriter capabilities, stations and terminals serving more than 5,000 passengers per week shall be equipped with at least one clearly marked teletypewriter (TTY) to enable ticket agents and other appropriate personnel to communicate with handicapped persons. (Same as DOT § 27.73(a)(1)(ii)(G).)

(I) *Boarding Platforms.* All boarding platforms that are located more than two feet above ground, or present any other dangerous condition, shall be marked with a warning device consisting of a strip of floor material differing in color and texture from the remaining floor surface. The design of boarding platforms shall be coordinated with the vehicle design where possible, in order to minimize the gap between platform and vehicle doorway, and to permit safe passage by wheelchair users and other handicapped persons. Where it is not possible to construct boarding platforms that accommodate all vehicles, ramps or lift devices or both shall be available to permit boarding by persons in wheelchairs. (Same as DOT § 27.73(a)(1)(ii)(D).)

(J) *Parking.* Where parking facilities are provided, at least 2 spaces shall be set aside and identified for the exclusive use of handicapped persons. Curb cuts or ramps with grades not exceeding 8.33 degrees shall be provided at crosswalks between parking areas and the terminal. Where multilevel parking is provided, ample space which is clearly marked shall be reserved for handicapped persons with limited mobility on the level which is most accessible to the ticketing and boarding portion of the terminal facilities; such level change shall be by elevator, ramp, or by other devices which can accommodate wheelchair-confined persons. (Same as DOT § 27.73(a)(1)(ii)(I).)

(K) *Vehicular Loading and Unloading Areas.* Several spaces adjacent to the terminal entrance, separated from the main flow of traffic, and clearly marked, shall be made available for

the boarding and exiting of handicapped persons. The spaces should allow individuals in wheelchairs or with braces or crutches to get in and out of vehicles onto a level surface suitable for wheeling or walking. (Same as DOT § 27.73(a)(1)(ii)(H).)

(L) *International Accessibility Symbol.* The international accessibility symbol shall be displayed at wheelchair—accessible entrances to buildings that meet ANSI standards. (Same as DOT § 27.73(a)(1)(ii)(B).)

(iv) *An exemption from any of the above-described new facility regulations (i.e., 1124.12(e)(1) (i)-(iii) may be sought by filing with the Commission an appropriate petition. Only carriers who do not receive federal assistance may qualify for such an exemption. Such petitions may be granted by the Commission if the carrier can show that financial and/or practical considerations make adherance to the regulation impossible. A carrier need not petition for an exemption when the carrier departs from a particular regulation if the carriers filed a notice with the Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423, indicating which regulation the carrier is departing from, what the departure entails, and how equivalent access to the facility shall be provided for the handicapped. The exemption procedures shall be those enumerated in § 1124.2(d).* (No equivalent DOT section.)

(2) *Existing Facilities.* (i) *Structural Changes.* Existing transportation facilities shall, as explained in the transition plan to be submitted to the *Commission* pursuant to *§ 1124.12 (e)2(vi),* be modified to insure that the facilities, when viewed in their entirety, are readily accessible to and usable by *handicapped persons.* Such changes shall be made in accordance with the ANSI standards, *which are incorporated by reference in this part. Departures from particular aspects of the ANSI standards shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.*

(ii) *Where structural changes are necessary to make existing facilities accessible,* such changes shall be made as soon as practicable, but in no event later than five (5) years after the effective date of the regulations.

Comment: These subsections are similar to DOT § 27.73(a)(2)(ii). The italicized portions differ from the DOT sections although similar subject matter is involved. We believe it is appropriate to indicate that the ANSI standards are guidelines not rigid rules.

(iii) All *carriers that provide intercity rail passenger* service shall begin immediately to incorporate accessibility features in stations and terminals that are already undergoing structural changes involving entrances and exits, interior doors, elevators, stairs, baggage areas, drinking fountains, toilets, telephones, eating places, boarding platforms, curbs, and parking garages. (See DOT § 27.73(a)(2)(i)).

(iv) *Existing Danger:* Every existing facility and piece of equipment shall be free of conditions which pose a danger to the life or safety of handicapped persons. Upon discovery of such conditions, the danger shall be immediately eliminated and all necessary steps taken to protect the handicapped or a particular category of handicapped persons, from harm during the period that the facility or equipment is being made safe. (Same as DOT section 27.73(a)(2)(v)).

(v)(A) *An exemption from the above-described existing facility regulations (i.e., § 1124.12(e)(2) (i)-(iv)), may be sought by filing with the Commission an appropriate petition. Such petitions must be filed on or before the transition plan is submitted. See § 1124.12(e)(2)(vi)) in accordance with the procedures enumerated in § 1124.2(d). Such petitions may be granted by the Commission if the carrier can show that financial and/or practical considerations make adherence to the regulations impossible. A carrier need not petition for an exemption were the carrier departs from a particular regulation, but clearly provides equivalent access to the facility for the handicapped, if the carrier files a notice with the Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423, indicating which regulation the carrier is departing from, what the departure entails, and how equivalent access to the facility for the handicapped shall be provided.*

(B) *If the carrier receives Federal financial assistance, the carrier shall file its exemption request with the Federal Railroad Administration (FRA) at the same time it files the petition with the Commission.*

(*1*) Within 30 days from the date the petition is filed with the *Commission and* the FRA, representatives of the Commission will meet with representatives of the FRA to determine if the justification is adequate. The representatives will coordinate their efforts so that any changes requested by either the Commission or FRA are consistent.

(*2*) If no agreement can be reached by the Commission and the FRA on the adequacy of the justification within 60 days from the date the representatives first meet, the matter shall be referred to the Secretary of the Department of Health, Education, and Welfare for resolution.

Comment: DOT exemption section (27.73(a)(2)(ii)) differs from the Commission's version. The differences are necessitated by the fact that each agency's regulations must conform to the intent of that agency's particular enabling statute (i.e., ICC—section 801 of the Rail Passenger Service Act of 1970, as amended; DOT—sections 201 and 202 of the Rail Passenger Service Act of 1970 as amended, and section 504 of the Rehabilitation Act of 1973). Consistent implementation of the differing exemption provisions is insured by the inclusion of the conference procedure in both versions.

(vi)(A) *Transition plan:* Where extensive changes to existing facilities are necessary to meet accessibility requirements, a *carrier* shall develop and submit to the Commission, within 1 year after the effective date of *these regulations,* a transition plan setting forth the changes needed to comply with *these regulations.*

(B) The plan shall contain, but not necessarily be limited to:

(*1*) Identification of the physical obstacles in the facility that limit the accessibility of the facilities to handicapped persons;

(*2*) Description of the methods that will be used to make facilities accessible;

(*3*) A schedule for undertaking the steps necessary to achieve full accessibility to the passenger handling process. If the transition plan will require more than 1 year to implement, then steps to be taken during each year of the transition period should be identified.

(C) To the extent feasible, a *carrier* should, at a minimum, strive to make one-fifth of all fixed facilities accessible each year until all such facilities are accessible to and usable by handicapped persons, except those exempted pursuant to *§ 1124.12(e)(2)(iv).* (Same as DOT § 27.73(a)(2)(iii)).

(D) *Carriers who receive Federal financial assistance shall file their transition plans with the FRA at the same time that they file the plans with the Commission.*

(*1*) Within 30 days from the date the plan is filed with the Commission and the FRA, representatives of the FRA will meet with representatives of the Commission to determine if the plan is adequate. The representatives shall coordinate their efforts so that any changes requested by either the Commission or the FRA will be consistent.

(*2*) If no agreement can be reached by the Commission and the FRA within 60 days from the date the representatives first meet, the matter shall be referred to the Secretary of the Department of Health, Education, and Welfare for resolution.

Comment: DOT § 27.73(a)(2)(iv) is almost exactly the same. Given the fact that Commission jurisdiction extends to carriers who do not receive federal assistance, the Commission section must specify that only federally funded carriers must submit their transition plans to the FRA as well as the ICC.

ALTERNATIVE FACILITIES REGULATIONS

Alternative § 1124.12(e)(1)

(1) *New Facilities.*

(i) Every fixed *transportation* facility or part of a facility including every station, terminal, building, or other facility *used by the traveling public,* the intended use of which will require *that such fixed facility be accessible to the public,* shall be designed and constructed in *such manner that the facility is readily accessible to and usable by handicapped persons.*

(ii) *An exemption from the above-described new facility regulation may be sought by filing with the Commission an appropriate petition. Only carriers who do not receive federal assistance may qualify for such an exemption. Such petitions may be granted by the Commission if the carrier can show that financial and/or practical considerations make adherence to the regulations impossible. A carrier need not petition for an exemption where the carrier departs from a particular regulation, if the carrier files a notice with the Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423, indicating which regulation the carrier is departing from, what the departure entails, and how equivalent access to the facility for the handicapped shall be provided. The exemption procedures shall be those enumerated in section 1124.2(d).*

(2) *Existing Facilities*

(i) *Structural changes:* Existing transportation facilities shall be modified to insure that the facilities when viewed in their entirety, are readily accessible to and usable by *handicapped persons.*

(ii) *Where structural changes are necessary to make existing facilities accessible, such changes shall be made* as soon as practicable, but in no event later than (5) five years after the effective date of the *regulations.*

(iii)(A) *An exemption from the above-described existing facility regulations (i.e., § 1124.12(e)(2) (i)-(ii)) may be sought by filing with the Commission an appropriate petition. Such petitions must be filed on or before the transition plan is submitted to the Federal Railroad Administration (FRA), in accordance with the procedures enumerated in § 1124.2(d). Such petitions may be granted by the Commission if the carrier can show that financial and/or practical considerations make adherence to the regulations impossible. A carrier need not petition for an exemption where the carrier departs from a particular regulation, if the carrier files a notice with the Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423, indicating which regulation the carrier is departing from, what the departure entails, and how equivalent access to the facility for the handicapped shall be provided.*

(B) *If the carrier receives Federal financial assistance, the carrier shall file its exemption request with the FRA at the same time it files the petition with the Commission.*

(*1*) Within 30 days from the date the petition is filed with the Commission and the FRA, representatives of the Commission will meet with representatives of the FRA to determine if the justification is adequate. The representatives will coordinate their efforts so that any changes requested by either the Commission or FRA are consistent.

(*2*) If no agreement can be reached by the Commission and the FRA on the adequacy of the justification within 60 days from the date the representatives first meet, the matter shall be referred to the Secretary of the Department of Health, Education, and Welfare for resolution.

Comment: These alternative sections would replace all of the proposed amendments and additions previously presented as 49 CFR 1124.12. We include them to encourage comments concerning the amount of detail that is necessary in the Commission's regulations to insure the handicapped access to the intercity rail passenger facilities.

3. It is proposed that in 49 CFR 1124.14 paragraph (b) is revised to read as follows:

§ 1124.14 Equipment required to meet public demand.

* * * * *

(b)(1) Within 3 years from the effective of the subsection on each passenger train (i) at least one coach car shall be accessible, (ii) where sleeping cars are provided, at least one sleeping car shall be accessible, and (iii) at least one car in which food service is available shall be accessible to handicapped persons, or they shall be provided food service where they are seated. In cases where the only accessible car is not a coach, first class seating for handicapped persons shall be provided at coach fare. (Same as DOT § 27.73(b)(1)).

(2) In order for a passenger car to be made accessible to handicapped persons, the following shall be made available:

(i) Space to park and secure one or more wheelchairs to accommodate persons who wish to remain in their wheelchairs, and space to fold and store one or more wheelchairs to accommodate individuals who wish to sit in coach seats;

(ii) Accessible restrooms with wide doorways, bars to assist the individual in moving from wheelchair to toilet, low sinks, and other appropriate modifications. These restrooms should be large enough to accommodate wheelchairs.

(iii) General access to food service, including wide enough aisles, and accessible tables if a dinette or dining car is used.

(iv) If there is an insufficient supply of existing accessible equipment to meet the requirements set forth in (i), (ii) and (iii), *carriers* must either retrofit a sufficient quantity of existing equipment or purchase a sufficient quantity of new accessible equipment. (Same as DOT § 27.73(b)(2)(iii)).

(3) All new rail vehicles ordered more than one year after the effective date of this *subsection* by *carriers* shall be designed so as to be accessible to handicapped persons and shall display the international accessibility symbol at each entrance. (Same as DOT § 27.73(b)(2)(iii)).

4. It is proposed that in 49 CFR 1124.15 paragraph (b) is revised to read as follows:

§ 1124.15 Services required to meet public demand.

* * * * *

(b) No *carrier* shall deny transportation to any person who meets the requirements of this regulation because that person cannot board a train without assistance, or use on-train facilities without assistance, except as provided in this regulation. (Same as DOT § 27.73(c)(1).

(1) Handicapped persons who require the assistance of an attendant shall not be denied transportation so long as they are accompanied by an attendant. Handicapped persons who require the service of an attendant, but who are unaccompanied, are not required to be transported by a *carrier* under this regulation. Handicapped persons requiring the assistance of an attendant shall include those who cannot take care of most of their fundamental personal needs. (Same as DOT § 27.73(c)(2)).

(2) All *carriers* at stations, except flag stops and closed stations shall, on advance notice of 3 hours or more, provide assistance to handicapped persons, except that those handicapped persons who require the services of an attendant, including those who are confined to a bed or stretcher, shall give advance notice of at least 12 hours. Such assistance shall include, but is not limited to, advance boarding and assisting the handicapped persons in moving from station platform onto the train and to a seat. The *carrier* shall provide the same assistance to the handicapped persons as they leave the train and reboard another train in the process of changing trains. *Carriers* shall provide assistance upon request to handicapped persons in the use of station facilities and in the handling of baggage. (Same as DOT § 27.73(c)(3)).

(3) In all open stations there shall be prominently displayed a notice stating the location of the *carrier's* representative or agent who is responsible for providing assistance to handicapped

persons. Carriers shall publish in their schedules a notice of those closed stations and flag stops at which assistance cannot be provided to handicapped persons. (Same as DOT § 27.73(c)(4)).

(4) Assistance to handicapped persons in the use of on-train facilities shall be provided:

(i) *General Assistance: All carriers* shall provide assistance to handicapped persons in moving to and from accommodations, including assistance in moving to and from wheelchairs.

(ii) *Restroom Facilities:* All *carriers* shall, upon request, provide assistance to handicapped persons needing assistance in gaining access to *restroom* and *washroom* facilities.

(iii) *Sleeping Car Service:* All *carriers* on all trains where sleeping car service is provided shall, upon request, provide assistance in gaining access to the facilities on various accommodations, such as roomette, bedroom or compartment.

(iv) *Dining and Lounge Car Service:* Where dining cars, food service cars, or lounge cars are inaccessible to handicapped persons, all *carriers* shall, upon request, provide meal, beverage, and snack service to handicapped persons needing such service in their accommodations. (Same as DOT § 27.73(c)(5)).

(5). *Assistance with Wheelchair, Crutches, Walkers, and Canes:* All *carriers* shall provide coach or sleeping car space to store, and shall assist in storing, such orthopedic aids as wheelchairs, walkers, crutches, and canes. These orthopedic aids shall be stored on the same coach or sleeping car in which the handicapped person travels. (Same as DOT § 27.73(c)(6)).

(6) *Notice of Available Assistance Provided in the Use of On-Board Facilities:* All *carriers* shall, on all coaches, sleeping cars, dining cars, food service cars, and lounge cars, permanently display a notice stating where and from whom assistance in the use of facilities of the various cars may be obtained. (Same as DOT § 27.73(c)(7)).

(7) *Bedridden and Stretcher-Bound Passengers:* Where equipment is designed or modified to accept bedridden or stretcher-bound passengers without unreasonable delay, the *carrier* shall provide assistance in the boarding of bedridden or stretcher-bound persons into sleeping quarters. Accessibility to coaches for these persons is not required. Advance notification of 12 hours or more is mandatory in order to insure provision of assistance to bedridden or stretcher-bound passengers. For the purpose of this section, assistance need not necessarily include placing the bedridden or stretcher-bound persons into the compartment. (Same as DOT § 27.73(c)(8)).

(8) *Passengers Requiring Life Support Equipment: Carriers* shall not be required to transport persons who are dependent upon life support equipment. (Same as DOT § 27.73(c)(9)).

(9) *Guide Dogs:* Seeing eye dogs and hearing guide dogs shall be permitted to accompany their owners on all passenger trains and shall be permitted in coach, sleeping and dining cars. (Same as DOT § 27.73(c)(10)).

(10) *Services to Deaf and Blind Passengers: Carriers* shall provide assistance to deaf and/or blind passengers on request, by advising them of station stops. (Same as DOT § 27.73(c)(11).)

(11) *Notice: Carriers* shall notify the public that they provide services that facilitate travel by handicapped persons. (Same as DOT § 27.73(c)(12).)

We would appreciate comments on all sections of these proposed regulations, not just the ones that differ from the DOT regulations.

Effective Date: The requirements of these regulations will become effective six months from the date of their promulgation.

[FR Doc. 78-15973 Filed 6-8-78; 9:31 am]

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[49 CFR Part 393]

[BMCS Docket No. MC-83; Notice No. 78-7]

FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Air Brake System on Commercial Vehicles—NHTSA Standard No. 121—Extended Comment Period

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of extension of comment period.

SUMMARY: The Federal Highway Administration (FHWA) issues this notice to extend the period for comment on an outstanding FHWA proposal to revise the Federal Motor Carrier Regulations to require that any antilock system installed on the drive axle of truck tractors to comply with Federal Motor Vehicle Standard 121 (FMVSS 121) be kept operative by motor carriers engaged in interstate or foreign commerce. This action is being taken because of recent court action on FMVSS 121.

DATES: Comment period has indefinite extended period.

FOR FURTHER INFORMATION CONTACT:

Mr. William R. Fiste, Jr., Chief, Regulations Division, Bureau of Motor Carrier Safety, 202-426-0033; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, 202-426-0825, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: After publication of the proposal March 9, 1978 (43 FR 9626), The United States Court of Appeals for the Ninth Circuit remanded portions of the FMVSS 121 to the National Highway Traffic Safety Administration (NHTSA) for further proceedings. Following this, the public hearing on the NHTSA proposal also published at 43 FR 9626 (March 9, 1978) was cancelled so that the court's order could be studied. The order has been stayed and is still under study. For this reason, FHWA hereby extends indefinitely the June 7, 1978, comment period originally established for the outstanding proposal. When study of the issues raised by the court's decision is completed, FHWA will take appropriate action on the proposal. It is noted that one petition for extension of this comment period was received by FHWA and placed in the appropriate rulemaking docket, but this does not form the basis for the extended comment period.

(49 U.S.C. 304; 49 CFR 1.48 and 301.60.)

Issued on June 5, 1978.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 78-16249 Filed 6-8-78; 10:37 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.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

INTERPRETIVE GUIDE

Publication Announcement

The Office of the Chairman of the Administrative Conference of the United States announces publication of An Interpretive Guide to the Government in the Sunshine Act. The 150-page book is the first government manual to be published on the Federal open meetings statute. The book presents a comprehensive examination of the legal and practical questions posed by the Sunshine Act. Its contents include a complete legislative history, selected bibliography, overview and summary, and discussion of all significant sections of the act. The book also contains seven appendices, including a copy of the statute, a listing of covered agencies with proposed and final regulations, sample meeting notices, and general counsel certification forms.

The Sunshine Act interpretive Guide can be purchased for $2.75 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock No. 052-003-00532-8).

Dated: June 2, 1978.

JOSEPH B. SCOTT,
Executive Director.

[FR Doc. 78-15985 Filed 6-8-78; 8:45 am]

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A617]

TENNESSEE

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Tennessee counties as a result of excessive rainfall September 1 through October 31, 1977, and severe cold weather December 1, 1977, through March 10, 1978, with blizzard conditions starting January 8, 1978, in Pickett County; and drought July 1 through July 31, 1977, and severe cold weather January 8, 1978, through March 6, 1978, in Van Buren County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904, subpart C, exhibit D, paragraph V B, including the recommendation of Governor Ray Blanton that such designation be made.

Applications for emergency loans must be received by this Department no later than November 22, 1978, for physical losses and May 29, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 2d day of June 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-16000 Filed 6-8-78; 8:45 am]

[3410-02]

Federal Grain Inspection Service

GRAIN STANDARDS

Delegation of Authority to the State of Alabama

Statement of considerations. Under the provisions of section 7 and 7A of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "Act") the Administrator of the Federal Grain Inspection Service (FGIS) may delegate authority to a State agency to perform all or specified functions involved in official inspection and official weighing at export port locations within the State, provided the State agency was performing official export inspection services on July 1, 1976 (7 U.S.C. 79, 79a). The act requires that prior to delegating such authority to a State agency the Administrator shall conduct an investigation to determine whether the agency is qualified and meets the criteria for delegation as provided in section 7 of the Act.

The Grain Inspection and Weighing Department of the Department of Agriculture and Industries of the State of Alabama made application for delegation of authority to perform official inspection and official weighing functions for grain at the export port locations within the State of Alabama.

FGIS has conducted the required investigation of the State of Alabama which included onsite reviews of all their inspection sites and a determination of the nature of any proscribed conflicts of interest that might have existed with individual employees and licensees of the State of Alabama. All investigations showed that the inspection and weighing operations of the State are in compliance with the Act and that any conflicts of interest situations that may have existed have been resolved.

As a result, the State of Alabama was declared eligible for delegation to perform the functions of official inspection and official weighing at export port locations within the boundaries of the State. The export elevator where the State has been performing official inspection service and will perform official inspection and official weighing services under the new official delegation is the Public Grain Elevator at Mobile. The delegation provides for the automatic inclusion of export elevators at export port locations which may be established in the future and will remain in effect until canceled by mutual agreement of FGIS and the State or until revoked by FGIS.

A document delegating this authority to the State was signed by the Assistant Deputy Administrator acting for the Administrator of FGIS and the Commissioner of Agriculture of the State of Alabama, effective April 17, 1978.

Done in Washington, D.C., on June 2, 1978.

DAVID C. MANGUM,
Acting Administrator.

[FR Doc. 78-16001 Filed 6-8-78; 8:45 am]

[3410-02]

GRAIN STANDARDS

Indiana Grain Inspection Point

Statement of considerations. On March 29, 1978, a notice was published in the FEDERAL REGISTER (43 FR 13082) announcing that (1) the Indianapolis Board of Trade, Inc., the official inspection agency designated pursuant to section 7(f) of the U.S. Grain Stand-

ards Act, as amended (7 U.S.C. 71 et seq., hereinafter the "Act"), for Indianapolis, Ind., requested that its designation be transferred to the Indianapolis Grain Inspection & Weighing Service, Inc., effective January 1, 1978; and (2) the Indianapolis Grain Inspection & Weighing Service, Inc., owned by messrs. W. D. Meyer and Jean T. Wishmire, applied for designation in accordance with the act and section 26.96 of the regulations (7 CFR 26.96) to operate as the official agency at Indianapolis, Ind.

In order that official inspection services at Indianapolis, Ind., continue to be provided in an orderly manner, the Indianapolis Grain Inspection & Weighing Service, Inc., was given an interim designation as the official inspection agency at Indianapolis, Ind., effective January 1, 1978, and the designation of the Indianapolis Board of Trade, Inc., was canceled, effective January 1, 1978, in accordance with section 26.101 of the regulations (7 CFR 26.101) under the act.

Interested persons were given until April 28, 1978, to submit written views and comments on the interim designation and the requested transfer and/or to make application to become the official agency at Indianapolis, Ind.

The one comment that was received supported this transfer. No additional applications have been received in response to the above.

NOTE.—Section 7(f) of the Act generally provides that not more than one official agency shall be operative at any one time for any geographic area.

As a point of clarification, it should be noted that the "Act" has been amended by Pub. L. 94-582, effective November 20, 1976, to extensively modify the official inspection system. The amended act provides that the Administrator of the Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points. In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies or persons presently designated to provide official inspection services. The amended act further provides that existing agencies may continue to operate without a designation under the new law until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed November 20, 1978.

Accordingly, after due consideration of the request and all relevant matters, the transfer and interim designation of the Indianapolis Grain Inspection & Weighing Service, Inc., as the official agency for Indianapolis, Ind., which is the subject of this notice, will continue until the Administrator of FGIS either grants or denies an official designation under the amended Act to the recipient or sets a period of time for its termination.

(Sec. 4, Pub. L. 94-582, 90 Stat. 2868 (7 U.S.C. 75a); sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note); 7 CFR 26.96 and 26.101.)

Effective date: This notice shall become effective June 9, 1978.

Done in Washington, D.C., on June 2, 1978.

DAVID C. MANGUM,
Acting Administrator.

[FR Doc. 78-16002 Filed 6-8-78; 8:45 am]

[3410-15]

Rural Electrification Administration

CENTRAL ELECTRIC POWER COOPERATIVE, JEFFERSON CITY, MO.

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $10,938,000 to Central Electric Power Cooperative of Jefferson City, Mo. and (b) supplementing such loan with an insured REA loan at 5 percent interest in the approximate amount of $9,300,000 to this cooperative. These loan funds will be used to finance a project consisting of 172 miles of 161 kV transmission line, 26 miles of 69 kV transmission line, new substations, switching and related transmission facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Carl M. Herren, Manager, Central Electric Power Cooperative, P.O. Drawer 269, Jefferson City, Mo. 65101.

In order to be considered, proposals must be submitted (within 30 days from the date of FEDERAL REGISTER publication of this notice) to Mr. Herren. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Central Electric and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 2d day of June 1978.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc. 78-15930 Filed 6-8-78; 8:45 am]

[3410-15]

ARKANSAS ELECTRIC COOPERATIVE CORP.

Draft Environmental Impact Statement

Notice is hereby given that the Environmental Protection Agency, acting as lead agency on behalf of itself and REA, has prepared a Draft Environmental Impact Statement in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with the joint participation by Arkansas Electric Cooperative Corp., Arkansas Power & Light Co. and the City Water & Light Plant of Jonesboro, Ark., in the construction of the Independence Power Plant, to be located on the White River near Newark (Independence County), Ark. The proposed plant would consist of two 800 MW (net) coal-fired, steam electric generating units.

REA anticipates receiving an application for a loan guarantee to Arkansas Electric Cooperative Corp., P.O. Box 9499, Little Rock, Ark. 72209, for AECC's share of the project.

REA has cooperated in the preparation of this document and gives notice of the issuance of this Draft Environmental Impact Statement.

Additional information may be obtained from Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are invited from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved, State and local agencies which are authorized to develop and enforce environmental standards and from the public.

Copies of the DEIS have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. The DEIS may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20250, room 4314 or at the headquarters of Arkansas Electric Cooperative Corp., whose address is given above.

Comments concerning the environmental impact of REA's proposed

action must be received on or before July 10, 1978, to be considered in connection with the proposed financing assistance.

Any financing assistance by REA pursuant to this application will be subject to, and release of funds thereunder will be contingent upon REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with environmental statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 5th day of June 1978.

JOSEPH VELLONE,
Acting Administrator, Rural Electrification Administration.

[FR Doc. 78-16003 Filed 6-8-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-6-5; Docket No. 32780]

AMERICAN AIRLINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 4

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1978.

By Order 78-6-4, issued concurrently with this Order, we have proposed to realign the route system of Ozark Air Lines in a manner which would, among other things, give Ozark unrestricted authority in the Indianapolis-Tulsa market, a minor market [1] where American holds restricted authority. As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on American as well as Ozark will give those carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-6-4, and those in Order 78-4-109 we tentatively find and conclude that the elimination of restrictions on American's operations in the Indianapolis-Tulsa market is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending American's certificate for Route 4 so as to remove operating restrictions in the Indianapolis-Tulsa market;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, within 30 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix I of Order 78-6-4, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed 15 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action, and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-6-4.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board. [4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-15938 Filed 6-8-78; 8:45 am]

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[1] Since this market generated 6,850 true O&D plus interline connecting passengers for the year ended 9/30/75, it meets the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2] We further tentatively find and conclude that American is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[6320-01]

[Order 78-6-6; Docket No. 32781]

DELTA AIR LINES, INC.

Order to Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 24

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1978.

By order 78-6-4, issued concurrently with this order, we have proposed to realign the route system of Ozark Air Lines in a manner which would, among other things, give Ozark unrestricted authority in the New York-Springfield, Mo., market, a minor [1] market where Delta holds restricted authority. As discussed in orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Delta as well as Ozark will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in order 78-6-4, and those in order 78-4-109, we tentatively find and conclude that the elimination of restrictions on Delta's operations in the New York-Springfield, Mo., market is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final.

[4] All members concurred.

[1] Since this market generated 7,160 true O. & D. plus interline connecting passengers for the year ended September 30, 1975, it meets the board's definition of a minor market, i.e., one with less than 20 daily passengers.

We expect such persons to direct their objections, if any, to specific markets, and to support objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[2]

Accordingly, *It is ordered*, That: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Delta's certificate for route 24 so as to remove operating restrictions in the New York-Springfield, Mo., market;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, within 30 days after the date of service of this order, file with the Board and serve upon all persons listed in appendix I of order 78-6-4, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed 15 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in appendix I of order 78-6-4.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-15940 Filed 6-8-78; 8:45 am]

[2] We further tentatively find and conclude that Delta is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[3] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4] All Members concurred.

[6320-01]

PICK-UP AND DELIVERY ZONE

Application for Tariff Filing Authority

JUNE 5, 1978.

In accordance with Part 222 (14 CFR Part 222) of the Board's economic regulations (effective June 12, 1964), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 32795, from Profit By Air, Inc., 5745 Arbor Vitae Street, Los Angeles, Calif. 90045, for authority to provide pick-up and delivery service between the Sacremento, Calif., airport and Auburn, Colusa, Elk Grove, Galt, Grass Valley, Linda, Lincoln, Lodi, Marysville, Newcastle, Placerville, Rocklin, Sunset Whitney Ranch, and Yuba City, Calif.

Under the provisions of section 222.3(c) of Part 222, interested persons may file an answer in opposition to or in support of this application on or before June 26, 1978. An executed original and 19 copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and include such economic data and facts as are relied upon, and shall be served upon the applicant and state the date of such service.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16054 Filed 6-8-78; 8:45 am]

[6320-01]

PROFIT BY AIR, INC.

Application for Tariff Filing Authority Pick-Up and Delivery Zone

JUNE 5, 1978.

In accordance with Part 222 (14 CFR Part 222) of the Board's economic regulations (effective June 12, 1964), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 32796, from Profit By Air, Inc., 5745 Arbor Vitae Street, Los Angeles, Calif. 90045, for authority to provide pick-up and delivery service between San Francisco International Airport and Cotati, Forrestville, Fulton, Graton, Healdsburg, Kenwood, Larkfield, Napa, Penngrove, Rohnert Part, Roseland, Sonoma, Santa Rosa, Sebastopol, and Windsor, Calif.

Under the provisions of section 222.3(c) of Part 222, interested persons may file an answer in opposition to or in support of this application on or before June 26, 1978. An executed original and nineteen copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and include such economic data and facts as are relied upon, and shall be served upon the applicant and state the date of such service

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16024 Filed 6-8-78; 8:45 am]

[6320-01]

[Docket 26573; Order 78-6-24]

AMERICAN AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1978.

By Order 69-8-28, August 5, 1969, in the *Service to White Plains Case*, American Airlines was awarded temporary Islip-Chicago authority. The authority was granted for a period of 5 years expiring October 6, 1974.

American has applied for renewal for a 5-year term. No answers have been filed.

We tentatively conclude that the public convenience and necessity require that American's application be granted, and that American be given permanent permissive authority in the Islip-Chicago market.[1] Service through satellite airports, such as Islip, contributes to the alleviation of congestion at the major New York area airport facilities and provides more convenient service to those of the traveling public who live or work close to the satellite. For these people, use of the satellite can shorten driving time and result in avoidance of the delays typical of major airports. Moreover, the huge New York metropolitan area and, more specifically, the heavily populated Long Island suburban areas closest to the Islip airport provide a potential traffic pool sufficient to make the Islip-Chicago service viable. American has been serving the market by means of a daily nonstop round trip since the inception of its service in 1970.

We also tentatively conclude that an oral evidentiary hearing is not required in this proceeding.[2]

[1] American has continued to operate the route under section 9(b) of the Administrative Procedure Act (5 U.S.C. 558(c)). While American has requested a temporary award, we see no reason why it should not be made permanent. Further, we tentatively conclude that the authority should be permissive, to allow American maximum flexibility to react to market forces, including the ability to cease serving the Chicago-Islip market without express Board approval.

[2] Further, we tentatively find that American is fit, willing, and able properly to perform the air transportation authorized by the certificate proposed to be issued by this order and to conform to the provisions of the Act and the pertinent Board rules, regulations and requirements, and that the

Footnotes continued on next page

Accordingly, *it is ordered*, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated in this order and amend the certificate of public convenience and necessity for Route 4 of American Airlines to delete the condition, "The authorization to serve segment 12 shall expire on October 6, 1974," and add the condition, "The authority to operate between the points Chicago and Islip on segment 12 is permissive";

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, or certificate amendment set forth in this order shall, within 30 days after the date of service of this order, file with the Board and serve upon all persons listed in paragraph 5 below, a statement of objections, together with a summary of testimony, satistical data, and other evidence expected to be relied upon to support the stated objections. Replies to objections shall be filed within 15 days after the expiration of the period for objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant or material facts would be expected to be established through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be given the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order; and

5. A copy of this order shall be served upon Allegheny Airlines, Inc., American Airlines, Inc., the mayor of Chicago, the supervisor of the town of Islip, and the airport directors of O'Hare International Airport and Islip MacArthur Airport.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16059 Filed 6-8-78; 8:45 am]

Footnotes continued from last page

grant of American's request will not constitute a major Federal action affecting the environment within the meaning of the National Environmental Policy Act of 1969.

[3]All Members concurred.

[6320-01]

[Docket 32782; Order 78-6-7]

EASTERN AIR LINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June, 1978.

By Order 78-6-4, issued, concurrently with this Order, we have proposed to realign the route system of Ozark Air Lines in a manner which would, among other things, give Ozark unrestricted authority in the Milwaukee-Nashville market, a minor[1] market where Eastern holds restricted authority. As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Eastern as well as Ozark will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-6-4, and those in Order 78-4-109, we tentatively find and conclude that the elimination of restrictions on Eastern's operations in the Milwaukee-Nashville market is required by the public convenience and necessity, and is consistent with our policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should State, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[2]

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[1]Since this market generated 6,430 true O. & D. plus interline connecting passengers for the year ended 9/30/75, it meets the Board's definition of a minor market, i.e., one with less than 20 daily passengers.

[2]We further tentatively find and conclude that Eastern is a citizen of the United State within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

Accordingly, *it is ordered*, That:

1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Eastern's certificate for Route 10 so as to remove operating restrictions in the Milwaukee-Nashville market;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, within 30 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix I of Order 78-6-4, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed 15 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board;[3]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Appendix I of Order 78-6-4

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16056 Filed 6-8-78; 8:45 am]

[6320-01]

[Order 78-6-14; Dockets 29441, 29991, 31414]

SERVICE TO KAMUELA CASE, ET AL.

Order

In the matter of Service to Kamuela Case (Docket 31414); application of Hawaiian Airlines, Inc., to suspend service at Wainsea, Hawaii, Hawaii (Docket 29441); application of Aloha Airlines, Inc., to suspend service at Kamuela, Hawaii (Docket 29991).

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[3]All motions or petitions for reconsideration shall be filed within the period allowed for objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[4]All Members concurred.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June, 1978.

By order 77-9-76, September 20, 1977, the Board instituted the *Service to Kamuela Case* in Docket 31414 to consider issues including the following:

(a) Whether the public convenience and necessity require, pursuant to section 401(g) of the Act, that Hawaiian Airlines, Inc.'s and/or or Aloha Airlines, Inc.'s certificates be altered, amended, or modified so as to suspend or delete Kamuela, Hawaii, Hawaii; and

(b) Whether the public interest requires, pursuant to section 401(j) of the Act, the temporary suspension of service by Hawaiian Airlines, Inc., and/or Aloha Airlines, Inc., at Kamuela, with or without conditions.

Consolidated together, and into this case to the extent that they conformed to the issues set forth above, were the applications of Hawaiian Airlines to temporarily suspend service at Waimea (Kamuela), Hawaii (Docket 29441)[1] and of Aloha Airlines for a two-year renewal of its authority to suspend service at Kamuela.[2] The considerations leading up to the issuance of that order included the decline in Hawaiian's traffic and air service at Kamuela, the completion of a new highway bringing Kamuela within about 45 minutes of the Keahole (Kona) airport (where substantial service is available), the operations of the commuter Royal Hawaiian (eight daily roundtrips between Kamuela and Keahole), the ability of the Kamuela runway to accomodate only smaller aircraft of Hawiian and Aloha (and then only if not fully loaded), and the fact that Kamuela still produced a substantial number of passengers and quantities of freight, which should have sustained in an economically viable operation there.

After preliminary procedures, including a prehearing conference, Judge Switkay's report of the conference, and the establishment of procedural dates for processing the case, Hawaiian moved to withdraw its application to suspend service to Kamuela and to dismiss the proceedings insofar as they pertain to the application. In support of its position it states that it "has determined, as a matter of policy, to renew its efforts to restore profitability to its Kamuela operation, and for that purpose to begin again to expand services there as soon as sufficient aircraft properly adapted to that airport can reasonably be made available." The judge promptly entered an order deferring the established procedual schedule to permit the Board to act on the motion.

Answers to the motion were filed by the Hawaii Parties[3] and Aloha. The Hawaii Partes oppose, on the ground that grant of the motion would not settle all the issues and would delay the proceeding. Aloha supports it, urging that since Hawaiian served Kamuela for 20 years and intends to continue to do so and to expand its services the Board should not expend its "scarce resources" on this case. Aloha acknowledges that there remain the questions of the disposition to be made of the *Service to Kamuela Case* and its application in Docket 2991. The latter problems were dealt with in Aloha's contemporaneously filed motion (1) to dismiss the *Service to Kamuela Case*, and (2) to grant its application in Docket 29991 for renewal of its suspension at Kamuela. No responses have been filed to Aloha's motion.

Conclusions

Upon consideration, the Board has determined (1) to grant Hawaiian's motion to withdraw its application in Docket 29441 and to terminate that case; (2) to defer Aloha's application for a two year renewal of its authority to suspend service at Kamuela pending disposition of an order to show cause why its authority there should not be made permissive, which we shall issue at this time; and (3) to dismiss the Service to *Kamuela Case*. In combination, these actions will leave the situation as we found it before the filing of Hawaiian's application in Docket 29441 and the institution of the *Service to Kamuela Case*, except that (1) Hawaiian has now decided to renew its efforts to restore profitability to its Kamuela operation and to expand services there, and (2) Aloha will have an opportunity to establish its authority at Kamuela on a permissive basis.

Hawaiian's Motion to Withdraw its Application

Hawaiian indicates that it wishes to withdraw its application in Docket 29441. We shall permit it to do so and shall dismiss the application. We shall also dismiss the proceeding in Docket 31414 insofar as it relates to that application. While the Hawaii Parties seek information promptly on unanswered questions relating to the extent of the expanded services promised by Hawaiian and the dates of availability of the new aircraft Hawaiian has in contemplation, we do not believe that our hearing processes are required or are the best means for obtaining such information. Otherwise there are no objections to the course we are following. No harm to the public should ensue from this course of action since Hawaiian cannot terminate its service at Kamuela without our permission.

Aloha's Application for Suspension

Aloha's application in Docket 29991 alleges facts comparable to those upon which three earlier orders of suspension were granted,[4] namely, that Hawaiian has maintained service to Kamuela, that its traffic has declined, that Kamuela is also served by Royal Hawaiian, a commuter carrier offering eight daily round trips that a new high-speed road bringing Kamuela within about 45 minutes of the Kona Airport has been completed, and that operations by Aloha there would result in losses in excess of $20,000 per month. There is no contravention of these allegations. The Hawaii Parties objected to the suspension of Aloha in this instance for the first time, apparently because Aloha's request was filed at the same time as Hawaiian's. That situation, of course, has now changed and Hawaiian continues to serve Kamuela. The Hawaii Parties have filed no response to Aloha's present motion for renewal of its suspension authority, apparently acquiescing in Aloha's express statement that Kamuela does not require the service of two certificated carriers.

Aloha has not rendered air service to Kamuela since 1970. The facts alleged in its application would warrant a further renewal of its temporary suspension. However, we believe and tentatively find that the public convenience and necessity (the standard for amendment of Aloha's certificate under section 401(g)) and the public interest (the standard for a temporary suspension under section 401(j) would be better served if Aloha's certificate were amended to make its authority to serve Kamuela permissive. If that were done, Aloha would not be required to serve that point, just as it is not required to do so after a temporary suspension. However, there would be several major benefits. First, neither Aloha nor the Board would have to be involved in renewals of temporary suspensions. Second, if circumstances changed so that operations at Kamuela became economically desirable for Aloha it would be in a position to inaugurate such service without further Board action.[5] Third, Aloha's authority to enter the market so

[1] Hawaiian's application was denied and it continues to serve Kamuela. See Orders 76-8-119 and 77-1-21.

[2] Aloha has been granted temporary suspensions since 1970, the last of which expired December 29, 1976. Since then, and presently, its suspension authority continues under the automatic extension provisions of 5 U.S.C. 558(c) and Part 377 of the Board's Special Regulations.

[3] The State and County of Hawaii.

[4] Orders 70-12-151, 72-12-111, and 74-11-131.

[5] Apart from traffic growth, the availability of new equipment or changes in the Kamuela runway might be the decisive factors.

promptly might well prove to be a competitive spur to Hawaiian. Under these circumstances we shall defer action on Aloha's application for a temporary suspension at Kamuela and institute show-cause procedures to amend its certificate to make its authority permissive.

We tentatively find that the public convenience and necessity require that Aloha's authority to serve Kamuela be made permissive for an indefinite period by amendment of its certificate for Route 99. We shall issue an order giving Aloha and other interested persons an opportunity to show cause why such tentative finding shall not be made final and Aloha's certificate for Route 99 be amended to make its authority at Kamuela permissive. If such action is taken Aloha's deferred application in Docket 29991 will be dismissed.

THE SERVICE TO KAMUELA CASE

In view of the disposition of the applications in Dockets 29441 and 29991 we believe that it is unnecessary to go forward at this time with the proceeding instituted in Docket 31414. The public interest in adequate air transportation at Kamuela has been achieved sufficiently to remove the justification for the proceeding we instituted. We shall terminate the proceedings in Docket 31414. Should the need arise, they can, of course, be reinstituted.

Accordingly, *it is ordered*, That: 1. The motion of Hawaiian Airlines, Inc. be granted.

2. The proceeding in Docket 29441 be dismissed.

3. The *Service to Kamuela Case* instituted in Docket 31414 be terminated.

4. Except to the extent granted, the motion of Aloha Airlines, Inc. be denied.

5. The application of Aloha in Docket 29991 be deferred.

6. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending the certificate of public convenience and necessity of Aloha Airlines, Inc., for Route 99 so as to make its authority at Kamuela permissive.

7. Any interested person having objections to the issuance of an order making final any of the proposed findings, conclusions or the certificate amendment set forth in this order shall within 30 days after the date of adoption, file with the Board and serve upon all the parties to this consolidated proceeding a statement of objections together with a summary of testimony, statistical data and other evidence expected to be relied upon to support the stated objections; answers to objections shall be filed within 10 days of such date.

8. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board.

9. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16057 Filed 6-8-78; 8:45 am]

[6320-01]

[Order 78-6-8; Docket 32783]

NORTH CENTRAL AIRLINES, INC.

Certificate of Public Convenience and Necessity for Route 86; Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of June, 1978.

By Order 78-6-4, issued concurrently with this Order, we have proposed to realign the domestic route system of Ozark Air Lines in a manner which would, among other things, give Ozark unrestricted authority in the Denver-Rochester, Minn. market, a minor market [1] where North Central holds restricted authority. As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and, accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on North Central as well as Ozark will give these carriers greater flexibility to establish more logical aircraft routings, and may enable them to offer new or additional service, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Therefore, consistent with our tentative findings and conclusions set forth in Order 78-6-4, and those in Order 78-4-109 we tentatively find and conclude that the elimination of restrictions on North Central's operations in the Denver-Rochester, Minn. market is required by the public convenience and necessity and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.[2]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.[3]

Accordingly, *it is ordered*, That: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending North Central's certificate for Route 86 so as to remove operating restrictions in the Denver-Rochester, Minn. market;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendment and modification set forth here shall, within 30 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix I of Order 78-6-4, a statement of evidence expected to be relied upon to support the stated objections; answers to objections shall be filed 15 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [4]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

5. A copy of this order shall be served upon all persons listed in Apendix I of Order 78-6-4.

This order shall be published in the FEDERAL REGISTER.

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[6] All Members concurred.

[1] Since this market generated 5,010 true O. & D. plus interline connecting passengers for the year ended 9/30/75, it meets the Board definition of a minor market, i.e., one with less than 20 daily passengers.

[2] As stated in Order 78-6-4, the award of nonstop authority in these minor markets will not change their subsidy status.

[3] We further tentatively find and conclude that North Central is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16058 Filed 6-8-78; 8:45 am]

[6320-01]

[Order 78-6-4; Dockets 28887 and 29948]

OZARK AIR LINES, INC., AND NORTH CENTRAL AIRLINES, INC.

Order To Show Cause; Routes 86 and 107[1]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1978.

By application and petition filed February 17, 1976, Ozark Air Lines asked the Board to issue an order directing interested persons to show cause why its certificate of public convenience and necessity for Route 107 should not be amended and modified to realign the five existing segments into one linear segment, and to eliminate certain conditions which Ozark claims impede its operating flexibility and are no longer required for competitive reasons. In response to Order 76-7-102, July 26, 1976, Ozark resubmitted its application to provide additional information and a revised format needed to process its application.

In support of its application and petition, Ozark contends that its certificate was last realigned in early 1969,[1] that, since that time, the Board has modified its realignment standards and that, therefore, it has not had the benefit of the Board's more recent restriction removal policies, which have increased the flexibility of other carriers. Furthermore, after its first realignment, it has received important route awards to major cities outside the bounds of its regional system, and it asserts that the Board should have an opportunity to reevaluate the extremely restrictive conditions placed on this authority, since many of these restrictions were due to pre-trial conditions and no longer serve any beneficial purpose. Ozark states that it does not plan to reduce or eliminate service at any point as a result of grant of its application. Finally, it proposes a modification of one of the Board's realignment guidelines.

Specific objections to Ozark's application as it relates to individual markets are contained in answers filed by Allegheny Airlines, American Airlines, Braniff Airways, Continental Air Lines, Frontier Airlines, North Central Airlines, Texas International Airlines, Trans World Airlines, United Air Lines, and Western Air Lines. Frontier and United are also opposed to the proposed modification of the Board's guidelines. Delta Air Lines and Northwest Airlines filed answers stating that they are not opposed to grant the application. Noting the local service carrier's opposition to trunk realignments, however, Delta and Continental suggest that further realignment of local service carriers be conditioned on final implementation of the trunk realignments. North Central also filed a motion to consolidate its application for nonstop Madison-Denver authority in Docket 29948 with Ozark's application here, since Ozark has requested removal of a one-stop restriction in that market. Finally, the Iowa State Department of Transportation and the Sioux City Airport Board have filed petitions for leave to intervene.[2]

Ozark filed a consolidated reply to the answers, together with a motion for leave to file an unauthorized document.[3]

As we stated in the recent Delta and Western route realignments,[4] it is our policy to realign the route systems of the certificated scheduled carriers to maximize the opportunities for scheduling flexibility and equipment utilization, to conform route authority to traffic flows, and to eliminate or modify certificate conditions which serve no useful purpose, impair market development, and inhibit significant improvement in the carrier's economic performance. These objectives of the realignment process are equally applicable to trunk and local service carriers.[5]

It is our tentative conclusion that Ozark's proposed realignment, as modified by this Order, is consistent with our policy and objectives discussed above and that substantial public service and carrier benefits will result from the realigned route system. Our conclusion is supported by the tentative findings below.

The proposed realignment will offer Ozark the potential for significant improvement in operating efficiency and will permit it to provide improved service to the traveling public. The consolidation of Ozark's existing system and the modification or elimination of unnecessary and burdensome conditions will allow it to provide new or improved service in markets in which such service is currently restricted as a result of either the arbitrary segmentation of its existing route or outmoded certificate restrictions.[6]

Two carriers, Braniff and North Central, essentially argue that they should be accorded comparative consideration in markets covered by Ozark's application. This ground has been thoroughly ploughed before, and we refer those carriers to the orders in the Western and Delta realignments.[7]

We have applied here the guidelines used in the Delta realignment,[8] with one exception. We propose to grant Ozark's request for nonstop authority in the Dallas/Ft. Worth-Joplin market. Although Ozark's best authority is one-stop via Tulsa, it carried 84 percent of the traffic for the year ended September 30, 1975.[9] Application of the realignment guidelines would dictate that this authority continue to be restricted, since Frontier has nonstop authority and objects to Ozark's request.[10] Frontier does not offer nonstop service, and neither carrier feels that the market can support nonstop service in the near future. Nonetheless, Ozark has shown that it is willing to serve the market, and by enabling both carriers to offer nonstop flights, we can assure that such service will be provided at the earliest opportunity. Our action here is consistent with our policy of making exceptions to our guidelines where the situation warrants.[11]

Nonstop authority in non-minor markets that Ozark receives through this realignment will be placed in Category II of its subsidy-ineligible list. This conforms to our decision in the *Phoenix-Des Moines/Milwaukee Route Proceeding*, Order 78-1-116, January 26, 1978.[12]

Finally, Ozark has filed an environmental evaluation in conformance with Part 312 of the Board's procedural regulations indicating that its proposals will not result in any substantial increase in air carrier operations. Moreover, it asserts that the removal and amelioration of the certificate restrictions proposed in its realignment application would result in improved fuel utilization and other operational efficiency which would, in turn, afford opportunities for reductions of air pollution and for decreases in the ambient noise level. Accordingly, we tentatively find and conclude that the action we propose here will not consti-

[5] All Members concurred.

[1] Order 69-2-97, February 19, 1969.

[2] We will grant the petitions.

[3] We will grant the motion.

[4] Orders 78-4-109, 77-11-74, and 76-5-101.

[5] Order 77-11-74, pp. 4-5.

[6] Ozark will, of course, be required by the *Domestic Passenger-Fare Investigation—Phase 9 (Fare Structure)*, Order 74-12-109, December 27, 1974, to revise its fares in markets in which it receives improved authority so that the fares are calculated in a manner which properly reflects the improved authority resulting from the realignment.

[7] Orders 76-5-101, 77-11-74, and 78-4-109.

[8] Order 78-4-109, April 19, 1978, Appendix C.

[9] Submission of Ozark Air Lines, Appendix G.

[10] See Appendix G, p. 2, filed as part of the original document.

[11] Order 78-4-109, at 9, 10.

[12] Since our minor market definition has been changed since the last realignment of a local service carrier, from 10 daily O&D passengers to 20 daily O&D plus interline connecting passengers, this results in a slight modification of the subsidy-eligibility standard.

tute a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

We further find and conclude that Ozark Air Lines is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, *it is ordered* that: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Ozark's certificate for Route 107 in the manner set forth in the accompanying proposed certificate (Appendix B);[12a]

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, within 30 days after the date of service of this order, file with the Board and serve upon all persons listed in Appendix I a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed 15 days thereafter;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board; [13]

4. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action;

5. Ozark's motions for leave to file otherwise unauthorized documents be granted;

6. The petitions for leave to intervene filed by the city of Sioux City, Iowa, and the Iowa Department of Transportation be granted;

7. The motion of North Central Airlines, Inc., for consolidation of Docket 29948 be denied; and

8. A copy of this order shall be served upon all persons listed in Appendix I.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[14]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16060 Filed 6-8-78; 8:45 am]

[12a] Appendices A-I filed as part of the original document.

[13] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[14] All members concurred.

[6320-01]

[Order 78-6-35; Dockets 29366, 31412]

PAN AMERICAN WORLD AIRWAYS, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of June 1978.

On September 19, 1977, Pan American World Airways filed an application for an amendment of its certificate of public convenience and necessity for Route 132 for fill-up authority between the domestic co-terminals of San Francisco and Seattle on flights operated in foreign or overseas air transportation. Pan American also filed a petition for issuance of an order to show cause.

In support of its petition, Pan American states that: it has provided service over a San Francisco-Seattle-London routing for a sustained period of time; [1] its load factor between Seattle and San Francisco for the 12 months ended April 1977, was only 34 percent, and grant of fill-up authority would help alleviate the waste of resources that so low a load factor entails; the grant of fill-up rights will not impose any substantial burden on the incumbents, United Air Lines and Western Air Lines, because of the high level of daily frequencies operated by them and the number of true O&D plus interline connecting passengers in the market; it does not propose to gear its services to the local market or add new services; and the Board has granted similar petitions before.

Pan American subsequently filed an amendment to its petition in which it stated its intention to introduce a standby fare of $55, comparable to the standby fare it currently offers in the Detroit-Boston market, in which it holds fill-up authority.

The Seattle parties [2] filed an answer in support of the petition. United and Western filed answers in opposition. United states that certification by show cause procedures is unlawful; that since San Francisco and Seattle are co-terminal points, Pan American does not have to serve both points if such service is uneconomic; and that the existing San Francisco-Seattle service is adequate. Western states that Pan American has not shown that lack of fill-up authority works an economic hardship; that grant of the application will hurt Western and United, while not being of great help to Pan American; and that the proposed low standby fares are aimed more at capturing a greater share of the market than at relieving economic burdens.

Pan American also filed an application for extension through April 29, 1978, of its exemption authority granted by Order 76-12-13, which permits it, for one year, to carry traffic between Seattle, on the one hand, and Hawaii and points beyond Hawaii on Pan American's transpacific routes, on the other hand, on one daily westbound flight operated via San Francisco.[3]

In support of its exemption request, the carrier states that the authority produces more efficient operations for it and added convenience for passengers without disrupting the pattern of competition in the Pacific, and that it will carry an average of 20 Seattle-Hawaii/Pacific passengers per flight if the exemption is extended, with total revenues of $576,360.

Continental filed an answer in opposition to the request. Continental claims that the renewal request confirms that the self-imposed limitation of time cited by the Board in granting

[1] The carrier states that during the past summer peak season the Seattle-San Francisco segment was temporarily suspended due to the introduction of nonstop San Francisco-London service. However, Seattle-San Francisco flights were resumed for the winter season, October 30, 1977, to April 29, 1978.

[2] The port of Seattle Commission, the city of Seattle, the county of King, the Seattle Chamber of Commerce and the Puget Sound Traffic Association. The answer was accompanied by a motion for leave to file an unauthorized document because the Seattle parties were not aware that the time to answer had been extended. However, as the answer was timely filed, we will dismiss the motion as moot.

[3] Although Seattle and San Francisco are coterminals on Pan American's transatlantic route, they are not coterminals on Pan American's transpacific or domestic routes. Therefore, the carrier is precluded by the terms of its certificates from carrying traffic between Seattle and Honolulu via the route junction point San Francisco. The carrier's authority expired December 7, 1977. However, Pan American filed a timely application for renewal and so is relying on 5 U.S.C. 558(c) for authority to continue its operations.

the original request is artificial; that Pan American states that it will be operating over the one-stop itinerary[4] for reasons of aircraft routing, traffic demand, and operating efficiency independent of the exemption authority and that, given these reasons, there is no need to divert additional traffic from the Pacific Northwest-Hawaii carriers; and that Continental is operating its Pacific Northwest-Hawaii service at a loss and any diversion to benefit Pan American will serve to increase the loss.

Pan American filed a reply to Continental's answer.

We tentatively conclude that the public convenience and necessity require the grant to Pan American of fill-up authority in the Seattle-San Francisco market. We also tentatively conclude that the public convenience and necessity require the amendment of its certificates to permit it to transport persons, property and mail in interstate and foreign air transportation between Seattle and Honolulu and points beyond Hawaii on Pan American's Route 117 flights operating via San Francisco.[5]

In support of our conclusion concerning fill-up rights, we tentatively find that Pan American is now providing service in this market and has done so for a substantial amount of time,[6] and that, in light of its low load factor of 34 percent, the grant of fill-up rights will benefit it, provide an added service option to the traveling public, and be conducive to greater efficiency in the utilization of both aircraft and fuel.

Also, we tentatively find that this grant will impose no substantial burden on the incumbent carriers, United and Western. There were 428,590 true O&D plus interline connecting passengers in 1975 in the Seattle-San Francisco market, and the incumbents operate 28 daily one-way nonstop trips.[7] Further, the long-haul restriction in the market—all flights would be required to operate beyond Seattle to London or another point in Europe—would tightly limit Pan American from increasing its nonstop service between the cities. Thus, while the grant of fill-up rights will aid Pan American, and provide expanded choices for the traveling public, it is unlikely to result in any significant diversion of traffic from United and Western.

Pan American's inability to carry Seattle-Honolulu traffic by way of San Francisco stems from an anomaly in the carrier's Mainland-Hawaii authority, which was historically structured as two separate routes. All other carriers awarded Mainland-Hawaii authority in 1969 in the *Transpacific Route Investigation*, 51 CAB 161, received it in the form of a single segment. Removal of this anomaly by combining segments 1 and 2 of its Route 117 is clearly in accord with our route realignment guidelines. We also tentatively find that the competitive impact on the other carriers operating in the Seattle-Honolulu market will be minor. Continental, Northwest and Pan American each provide one daily nonstop flight with wide-bodied equipment between Seattle and Honolulu in both the eastbound and westbound directions. Pan American would only be given the authority to add one-stop flights via San Francisco, and it would be operating them beyond Hawaii to points in the Pacific. The long-haul restriction will limit Pan American's ability to increase its service. Moreover, it has indicated in its exemption application that it intends to operate only one daily flight and that it does not intend to operate authority during the peak summer season.

Consequently, we tentatively find and conclude that the public convenience and necessity require that Pan American be authorized to transport persons, property, and mail in interstate air transportation between Seattle and San Francisco on flights operated in foreign or overseas air transportation pursuant to its certificate for Route 132;[8] and in interstate and foreign air transportation between Seattle and Honolulu and points beyond Hawaii on flights operating via San Francisco pursuant to its certificate for Route 117.[9,10]

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in writing in written pleadings. General, vague, or unsupported objections will not be entertained. In this connection, we note that it is not enough merely to state that one objects to the grant of a certain type of authority by show-cause procedures. The necessity of an evidentiary hearing must be demonstrated.[11]

Accordingly, *it is ordered*, That: 1. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and authorizing Pan American World Airways, Inc., to: (1) transport persons, property, and mail in interstate air transportation between Seattle and San Francisco on flights operated in foreign or overseas air transportation pursuant to its certificate for Route 132; and (2) between Seattle and Honolulu and points beyond Hawaii on flights operating via San Francisco pursuant to its certificate for Route 117;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth here shall, within 30 days after the date of service of this order, file with the Board and serve on all persons listed in paragraph 6 below a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied on to support the stated objections; answers may be filed 15 days thereafter;

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[4] Pan American proposes to provide daily service for the period October 30, 1977, through April 29, 1978, with B-747 aircraft between Seattle and Honolulu via San Francisco, with beyond service to one or more of the following points, depending on the day of the week: Guam, Okinawa, Taipei, Manila, Singapore, Pago Pago, Papeete, Nadi, Auckland, Sidney, and Melbourne.

[5] Pan American only asked for an extension of its exemption authority. However, since it intends to operate on a seasonal basis and would need a yearly extension of its exemption authority, we have tentatively decided to grant it permanent authority by show cause procedures.

[6] Seattle and San Francisco were originally included in Pan American's certificate in the West Coast-Europe Case, Order E-11567, served July 12, 1957, and service to London from those points was inaugurated on September 10, 1957. Now, Pan American operates one daily trip between San Francisco and Seattle, in each direction, on its San Francisco-Seattle-London and London-Seattle-San Francisco flights. O.A.G., North American Edition, November 15, 1977; O.A.G., Worldwide Edition, November 11, 1977.

[7] O.A.G., North American Edition, November 15, 1977.

[8] As we have indicated in a number of recent orders, we believe that lower fares are in the public interest and we strongly encourage their institution in the markets for which we are granting fill-up authority.

[9] We further tentatively find that Pan American is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[10] Although Pan American only asked for exemption authority in the westbound direction, we see no reason to limit the certificate amendment in that manner.

[11] We have considered Pan American's representations as to the environmental effects resulting from awards of Seattle-San Francisco fill-up rights and Seattle-San Francisco-Honolulu rights. On the basis of these representations, we tentatively find that such awards will not be major Federal actions significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised in the objections before further action is taken by the Board; [12]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action;

5. The motion of the Seattle Parties for leave to file an unauthorized document be dismissed; and

6. A copy of this order be served upon Pan American World Airways, Continental Air Lines, Northwest Air Lines, United Air Lines, Western Air Lines, and the Seattle parties.

This order shall be published in the FEDERAL REGISTER. [13]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16061 Filed 6-8-78; 8:45 am]

[6320-01]

[Order 78-6-19; Dockets 32097, 32187, 32195]

PITTSBURGH-ORLANDO-DAYTONA BEACH ROUTE PROCEEDING

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June, 1978. In the matter of Pittsburgh-Orlando-Daytona Beach route proceeding (Docket 32097); application of United Air Lines, Inc. for amendment of its certificate of public convenience and necessity (Docket 32195); application of Northwest Airlines, Inc. for a certificate of public convenience and necessity or amendment of its current certificates (Docket 32187).

By Order 78-2-42 (February 9, 1978) the Board instituted the *Pittsburgh-Orlando-Daytona Beach Route Proceeding*, Docket 32097, to determine whether the public convenience and necessity require that a carrier or carriers by certificated to provide new or additional service in the above markets,[1] and if so, whether the authority should be subject to conditions. Applications, motions to consolidate, and petitions for reconsideration were to be filed within 20 days and answers within 15 days after that.

A timely application to provide services within the defined scope of this proceeding has been filed by Northwest Airlines, Inc., Docket 32187. The application was accompanied by a motion to consolidate it into Docket 32097 for hearing and consideration. Since the issues in the application are the same as those in the investigation, we find that their consolidation into Docket 32097 will be conducive to the proper dispatch of the Board's business, and we will order consolidation of the application into this case.

Order 78-2-42 (February 9, 1978) was issued in response to applications of Allegheny Airlines, Inc., Docket 29827, and United Airlines, Inc., Docket 30034, seeking authority between some of their Northeast markets and several Florida points.[2] Allegheny asked for authority between Pittsburgh, Pa., and Baltimore, Md., and the coterminal points Daytona Beach, Orlando, Sarasota, and West Palm Beach, Fla. United asked for authority in the Orlando-Buffalo/Cleveland/Pittsburgh markets. The Board determined to institute an investigation of Pittsburgh-Orlando as the primary market because it appeared able to support competitive service. We included two other markets, Daytona Beach-Orlando/Pittsburgh because they integrate well with the primary market, will maximize the operating flexibility of the applicant's service proposals, and will increase the prospect of economically viable service in all three. We specifically declined to include the other Northeast markets suggested by Allegheny and United because they either do not suffer service deficiencies or are too small to warrant priority of hearing. In addition, grant of either or both of the requests was determined likely to result in a large area investigation of Northeast-Florida service, which would not be an efficient use of the Board's resources.[3] Finally, the Board rejected United's request to place its Route 51, restriction 8, in issue because there was no evidence of need for additional service in the intra-Florida markets in which it would receive single-plane authority.

Petitions for reconsideration have been submitted by Delta and United. Both petitions ask the Board to reexamine its decision not to include numerous Northeast/Great Lakes-Orlando/Daytona Beach markets in this case—Boston, New York, and Philadelphia by Delta, and Buffalo, Cleveland, and Rochester in the case of United. United also urges the Board to expand the case to consider permitting service beyond Orlando and Daytona Beach to Miami and Tampa by those carriers which already hold direct Pittsburgh-Miami/Tampa authority. In support of its petition, Delta contends that the Boston and Philadelphia markets are larger and less well served than the Pittsburgh markets, and that the New York-Orlando market is large enough to consider the possibility of a third nonstop competitor, particularly since Delta now holds restricted authority in it. The County of Volusia supports Delta's petition insofar as it would permit the Board to consider improved service to Daytona Beach. United argues that the Board's earlier decision denies the Great Lakes markets the opportunity to receive low-fare service which it and other applicants would probably propose if these markets were in issue. It also asserts that the addition of Tampa and Miami will permit greater operational flexibility, and is consistent with the Board's recent decision expanding the scope of the *Florida-Atlanta Competitive Service Case* (Orders 77-12-22 and 78-2-55).

Numerous answers in opposition to the petitions for reconsideration have been filed. Allegheny, Eastern, and the Board's Bureau of Pricing and Domestic Aviation oppose both petitions; Southern and Delta oppose United's to the extent that it seeks to add Tampa and Miami as beyond-segment points. In essence, they contend that a grant of one or both petitions could complicate and delay an examination of the Pittsburgh-Orlando-Daytona Beach markets, and would reinstate a large unwieldy proceeding that the instituting order in this case sought to avoid, without compensating public benefits.

We shall deny the petitions for reconsideration. For the most part, the Northeast/Great Lakes markets that Delta and United seek to add to this case were previously considered and excluded by the Board in instituting this proceeding. None of the petitions establishes error in our earlier determination or has presented convincing reasons why we should now, as a matter of discretion, transform this case into a broad, time-consuming area-type investigation. We do not agree with United's implication that the exclusion of the Great Lakes markets will deprive them of low-fare service. Since United operates nonstop service in the Pittsburgh-Buffalo/Cleveland/Rochester markets, it will be able to offer each of the Great Lakes cities low-fare one-stop service to Orlando/Daytona Beach if it is awarded the authority at issue in this case. Furthermore, exhibits have been submitted and hearings have already been completed under an expedited schedule established by the presiding administrative law judge. Expansion

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[12] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[13] All Members concurred except Member West whose concurring and dissenting statement was filed as part of the original document.

[1] Eastern Airlines, Inc. is the monopoly carrier in these markets.

[2] Delta filed an answer in which it stated that if a Northeast-Florida points service investigation is instituted, the investigation should include (1) the Boston/New York/Washington-Daytona Beach/Orlando/Sarasota/West Palm Beach markets, and (2) removal of Delta's restrictions in the Baltimore/Philadelphia-Orlando/West Palm Beach markets. Order 78-2-42, p. 4.

[3] Order 78-2-42, p. 7.

of the proceeding to include Miami and Tampa at this time would complicate the case and delay the disposition of the Pittsburgh-Orlando-Daytona Beach issue.

Nonetheless, we are sensitive to the problems that can result from dead-end operations and recognize that the public can be served best by permitting airlines to operate in the most efficient manner. Our decision to include Daytona Beach-Orlando/Pittsburgh markets within the scope of this case was, in fact, based partly on these considerations. Given our reluctance to disrupt the procedural schedule in the case, should United or some other applicant serving Tampa or Miami be selected we will consider employing our show cause or proposed expedited non-oral hearing procedures [4] to examine whether an extension to Tampa or Miami would improve the efficiency of the primary market operations.

Accordingly, *it is ordered*, That: 1. The petitions for reconsideration of order 78-2-42, filed by Delta and United be denied;

2. The motion to consolidate into Docket 32097 the application of Northwest Airlines, Inc. (Docket 32187) be granted;

3. Except to the extent granted, all applications, petitions, and motions are denied.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16062 Filed 6-8-78; 8:45 am]

[6335-01]

CIVIL RIGHTS COMMISSION

WASHINGTON ADVISORY COMMITTEE

Agenda and 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 Washington Advisory Committee (SAC) of the Commission will convene at 2 p.m. and will end at 5 p.m. on June 30, 1978, 915 2nd Avenue, Room 2852, Seattle, Wash. 98174.

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

The purpose of this meeting is to discuss project on Status of Civil Rights in Washington.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., June 6, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-16052 Filed 6-8-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

DEPARTMENTS OF THE ARMY, HOUSING AND URBAN DEVELOPMENT, STATE

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 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 the Army—Deputy Assistant Secretary of the Army (Acquisition), Office, Assistant Secretary of the Army (Research, Development and Acquisition), Office, Secretary of the Army.

Department of Housing and Urban Development—Director, Office of Urban Development Action Grants, Office of the Assistant Secretary for Community Planning and Development.

Department of State—Deputy Director, Policy, Planning Staff.

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

[FR Doc. 78-16034 Filed 6-8-78; 8:45 am]

[6325-01]

DEPARTMENTS OF DEFENSE, HEALTH, EDUCATION, AND WELFARE, OFFICE OF MANAGEMENT AND BUDGET, ACTION

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Departments below to fill by noncareer executive assignment in the excepted service the following positions:

Department of Defense—Principal Deputy Assistant Secretary (Installations and Logistics), Immediate Office, OASD (Installations and Logistics), Office of the Secretary of Defense.

Department of Health, Education, and Welfare—(1) Associate Administrator for Planning, Research, and Evaluation, Office of the Associate Administrator for Planning, Research, and Evaluation, Social and Rehabilitation Service. (2) Deputy Assistant Secretary for Health, Office of the Assistant Secretary for Health, Public Health Service.

Office of Management and Budget—Special Assistant to the Deputy Director, Office of the Director, Executive Office of the President.

ACTION—a temporary identical additional position of Deputy Associate Director for Domestic and Anti-Poverty Operations, Office of the Associate Director, Office of Domestic and Anti-Poverty Operations.

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

[FR Doc. 78-16035 Filed 6-8-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

SPEED TEX CORP. ET AL.

Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing from three firms: (1) Speed Tex Corp., 114 Colony Lane, Syosset, N.Y. 11791, a finisher of fabrics (accepted May 31, 1978); (2) Clifton Drapery Manufacturing, Inc., 11 Circle Avenue, Clifton, N.J. 07011, a producer of drapery and upholstery fabrics (accepted June 1, 1978); and (3) US Sports, Inc., 34 West Putnam Avenue, Greenwich, Conn. 06830, a producer of athletic footwear (accepted June 2, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 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. 78-16010 Filed 6-8-78; 8:45 am]

[4] See PDR-54, dated April 18, 1978.
[5] All members concurred.

[3510-22]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Meeting

The New England Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet June 28-29, 1978, at the Southeastern Massachusetts University, Old Westport Road, North Dartmouth, Mass. The meeting starts at 10 a.m. and will adjourn at approximately 5 p.m., June 28, and 9 a.m. to approximately 5 p.m. on June 29.

Proposed Agenda: (1) Management objectives for pollock, redfish and hakes; (2) groundfish management plan; and (3) other fishery management business.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact: Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, 1 Newbury Street, Peabody, Mass. 01960, telephone 617-535-5450.

Dated: June 5, 1978.

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

[FR Doc. 78-16004 Filed 6-8-78; 8:45 am]

[3510-22]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL'S GROUNDFISH ADVISORY SUBPANEL

Public Meeting

The Mid-Atlantic Fishery Management Council's Groundfish Advisory Subpanel, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet on June 26, 1978, at Holiday Inn, Exit 72 of Long Island Expressway, Riverhead, N.Y., 11901. The meeting starts at 8 p.m. and will adjourn at about 10 p.m., on June 26, 1978.

Proposed Agenda: (1) Discuss New England's Groundfish Regulations.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact: Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, North and New Streets, Dover, Del. 19901, telephone 302-674-2331.

Dated: June 5, 1978.

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

[FR Doc. 78-16005 Filed 6-8-78; 8:45 am]

[3510-08]

National Oceanic and Atmospheric Administration

MASSACHUSETTS COASTAL MANAGEMENT PROGRAM

Approval

Notice is hereby given that, pursuant to the authority contained in section 306(a) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), the Assistant Administrator for Coastal Zone Management (on behalf of the Secretary of Commerce) has approved the Massachusetts coastal program (program) and awarded a grant to the Executive Office of Environmental Affairs to assist the Commonwealth in the administration of its program.

Approval was granted on April 24, 1978, and activates the Federal agency responsibility for being consistent with the Massachusetts program pursuant to the Federal consistency provisions of the Coastal Zone Management Act. Further information on the responsibilities of affected Federal agencies in this regard may be found in 15 CFR Part 930, published in the FEDERAL REGISTER on March 13, 1978.

A copy of the written findings made by the Assistant Administrator in determining that the Massachusetts program met the requirements of the Coastal Zone Management Act may be obtained on request from the North Atlantic Regional Manager, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street NW., Washington, D.C. 20235.

Effective date: June 2, 1978.

T. P. GLEITER,
Assistant Administrator for Administration.

FR Doc. 78-15975 Filed 6-8-78; 8:45 am]

[3510-08]

RHODE ISLAND COASTAL MANAGEMENT PROGRAM

Approval

Notice is hereby given that pursuant to the authority contained in section 306(a) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), the Assistant Administrator for Coastal Zone Management (on behalf of the Secretary of Commerce) has approved the Rhode Island coastal management program (program) and awarded a grant to the Office of the Governor to assist the State in the administration of its program.

Approval was granted on May 12, 1978, and activates the Federal agency responsibility for being consistent with the Rhode Island program pursuant to the Federal consistency provisions of the Coastal Zone Management Act. Further information on the responsibilities of affected Federal agencies in this regard may be found in 15 CFR Part 930, published in the FEDERAL REGISTER on March 13, 1978.

A copy of the written findings made by the Assistant Administrator in determining that the Rhode Island program met the requirements of the Coastal Zone Management Act may be obtained on request from the North Atlantic Regional Manager, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street NW., Washington, D.C. 20235.

Effective date: June 2, 1978.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc. 78-15976 Filed 6-8-78; 8:45 am]

[3510-08]

WISCONSIN COASTAL MANAGEMENT PROGRAM

Approval

Notice is hereby given that, pursuant to the authority contained in section 306(a) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), the Assistant Administrator for Coastal Zone Management (on behalf of the Secretary of Commerce) has approved the Wisconsin coastal management program (program) and awarded a grant to the Office of State Planning and Energy to assist the State in the administration of its program.

Approval was granted on May 22, 1978, and activates the Federal agency responsibility for being consistent with the Wisconsin program pursuant to the Federal consistency provisions of the Coastal Zone Management Act. Further information on the responsibilities of affected Federal agencies in this regard may be found in 15 CFR Part 930, published in the FEDERAL REGISTER on March 13, 1978.

A copy of the written findings made by the Assistant Administrator in determining that the Wisconsin program met the requirements of the Coastal Zone Management Act may be obtained on request from the Great Lakes Regional Manager, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street NW., Washington, D.C. 20235.

Effective date: June 2, 1978.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc. 78-15977 Filed 6-8-78; 8:45 am]

[3510-13]

Office of the Secretary

NATIONAL LABORATORY ACCREDITATION CRITERIA COMMITTEE FOR THERMAL INSULATION MATERIALS

Open Meeting

The National Laboratory Accreditation Criteria Committee for Thermal Insulaton will hold its second meeting on June 29-30, 1978, in the Main Commerce Building, 14th Street and Construction Avenue NW., Washington, D.C. (public entrance to the building is on 14th Street, between Constitution Avenue and E Street NW.). The Committee will meet from 9 a.m. to 5 p.m. on June 29 in Room 6043 and 9 a.m. to 4 p.m. on June 30 in Room 6802.

The Committee was established on October 12, 1977 (42 FR 55020) to develop and recommend to the Secretary of Commerce, general and specific criteria for accrediting testing laboratories that test thermal insulation materials. The Committee consists of 21 members; 10 of whom represent producers, distributors, users, consumers, academia, testing laboratories, and general interests in the private sector; 6 of whom represent Federal agency interests; and 4 of whom represent state and local government interests. The Committee is chaired by Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, of the Department of Commerce.

Tentative agenda items include:

1. Discussion of written comments submitted by the Committee members.
2. A review of the scope of the thermal insulation materials standards and test methods to be included in the program.
3. Accuracy and precision requirements of individual test methods.
4. Inspector checklists and their use.
5. Factors influencing costs and fees for accreditation.
6. Proficiency sampling programs.
7. Discussion of form and content of general and specific criteria to be recommended to the Secretary of Commerce.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of the minutes and material distributed will be made available for reproduction, following certification by the Chairman, in accordance with the Federal Advisory Committee Act, at Room 3876, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Additional information may be obtained from Mr. John W. Locke, Coordinator, National Voluntary Laboratory Accreditation Program, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-2054.

Dated: June 6, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-16036 Filed 6-8-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Additions

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

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1978 commodities and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: June 9, 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: On December 9, 1977, April 7, 1978, and April 14, 1978, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 62180, 43 FR 14711, and 43 FR 15767) of proposed additions to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the services and commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities and services are hereby added to Procurment List 1978:

Class 7210

Cover, Mattress (IB), 7210-00-140-4234, 7210-00-140-4231,7210-00-543-6001.

Class 7510

Binder, Note Pad (IB), 7510-01-053-5591.

SIC0782

Grounds Maintenance (SH), Department of Energy, Morgantown Energy Research Center, Morgantown, W. Va.

SIC 7399

Microfilming Contract Files (SH), Department of the Navy, OICC Trident, Bremerton, Wash.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-16017 Filed 6-8-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Addition

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

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1978 a service to be provided by workshops for the blind and other severly handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 19, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severly 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 addition, all entities of the Federal Governement will be requird to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1978, November 14, 1977 (42 FR 59015):

SIC 7349

Janitorial/Elevator Operator, Veterans Administration Clinic Building, 17 Covet Street, Boston, Mass.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-16018 Filed 6-8-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of the Air Force.

ACTION: Notice of new record system.

SUMMARY: The Department of the Air Force proposes to add a new record system to its system's inventory subject to the Privacy Act of 1974.

This new system is identified as F06604 AFLC A, entitled: "Maintenance Labor Distribution and Cost System." The system is needed to accumulate cost data for various workloads and functions at each Air Force maintenance depot.

DATES: This system shall be effective as proposed without further notice on July 10, 1978, unless comments are received on or before July 10, 1978, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the System Manager identified in the record system.

FOR FURTHER INFORMATION CONTACT:

Mr. Jon E. Updike, HQ USAF/DADMP, Bolling AFB, Washington, D.C. 20330, 202-767-4545.

SUPPLEMENTARY INFORMATION: The Department of the Air Force system of records notices as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-50785 (42 FR 50785) September 28, 1977.
FR Doc. 77-31218 (42 FR 56774) October 28, 1977.
FR Doc. 77-32284 (42 FR 58195) November 8, 1977.
FR Doc. 77-33780 (42 FR 59996) November 23, 1977.
FR Doc. 77-36260 (42 FR 64322) December 22, 1977.
FR Doc. 78-10398 (43 FR 16894) April 20, 1978.

The Department of the Air Force has submitted a new system report on May 12, 1978, under the provisions of 5 U.S.C. 552a(o) of the Privacy Act and in accordance with the Office of Management and Budget (OMB) guidance set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975. A request for waiver of the 60 day advance notice requirement by OMB was granted on May 24, 1978.

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

JUNE 6, 1978.

F06604 AFLC A

System name:

Maintenance Labor Distribution and Cost System.

System location: Primary system. Computer Operations Section, Data Automation Branch, Comptroller, at Oklahoma City Air Logistics Center, Tinker AFB, Okla.; Ogden Air Logistics Center, Hill AFB, Utah; Sacramento Air Logistics Center, McClellan AFB, Calif.; San Antonio Air Logistics Center, Kelly AFB, Tex.; and Warner Robins Air Logistics Center, Robins AFB, Ga.

Categories of individuals covered by the system:

All Air Force personnel (both military and civilian) assigned for duty (both permanently and temporarily) within the maintenance activity at each Air Logistics Center.

Categories of records in the system:

Employee Assignment Master File contains: (1) Social Security Number, (2) Military/Civilian Code, (3) Name, (4) Assigned Resource Control Center, (5) Assigned Shift, (6) Assigned Duty Code, (7) Assigned Special Project Code, (8) Assigned Skill Code, (9) Assigned Foreman Code, (10) Assigned Days Off, (11) Bank Card Counter, (12) Status Code, (13) Date Last Action, (14) Primary Change Effective Date, (15) Primary Change Termination Date, (16) Primary Change Resource Control Center, (17) Primary Shift Change, (18) Primary Change Duty Code, (19) Primary Change Special Project Code, (20) Primary Change Skill Code, (21) Primary Change Foreman Code, (22) Primary Change Days Off, (23) Secondary Change Effective Date, (24) Secondary Change Termination Date, (25) Secondary Change Shift (26) Secondary Change Duty Code, (27) Secondary Change Special Project Code, (28) Secondary Change Skill Code, (29) Secondary Change Foreman Code, (30) Secondary Change Days Off, (31) Interorganization Loan Indicator, (32) Partial Pay Period Code, (33) Regular Hours Worked Pay Period-to-date, (34) Overtime Hours Worked Pay Period-to-date, (35) Holiday Hours Worked Pay Period-to-date, (36) Compensatory Hours Worked Pay Period-to-date, (37) Hazard Hours Worked Pay Period-to-date, (38) Annual Leave Hours Worked Pay Period-to-date, (39) Sick Leave Hours Pay Period-to-date, (40) Other Paid Leave Hours Pay Period-to-date, (41) Compensatory Leave Hours Pay Period-to-date, (42) Leave Without Pay Hours Pay Period-to-date. Interdirectorate Loan Data File contains: (1) Social Security Number, (2) Military/Civilian Code, (3) Name, (4) From Resource Control Center, (5) From Shift, (6) From Duty Code, (7) From Special Project Code, (8) From Skill Code, (9) From Foreman Code, (10) From Days Off, (11) To Resource Control Center, (12) To Shift, (13) To Duty Code, (14) To Special Project Code, (15) To Skill Code, (16) To Foreman Code, (17) To Days Off, (18) Monthly Actual Hours. Inter/Intradirectorate Loan Data File contains following information on all affected individuals covered by the system: (1) Social Security Number, (2) Military/Civilian Code, (3) Name, (4) From Resource Control Center, (5) From Shift, (6) From Duty Code, (7) From Special Project Code, (8) From Skill Code, (9) From Days Off, (10) From Foreman Code, (11) To Resource Control Center, (12) To Shift, (13) To Duty Code, (14) To Special Project Code, (15) To Skill Code, (16) To Days Off, (17) To Foreman Code, (18) Starting Date, (19) Date Last Action, (20) Current Month Hours, (21) 1st Previous Month Hours, (22) 2nd Previous Month Hours, (23) 3rd Previous Month Hours.

Authority for development of the system:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the system is to accumulate labor costs for various workloads accomplished within the maintenance activity. Actual labor rates used within the system are obtained (via the Social Security Number) from the Civilian Payroll System and Military Payroll System.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Disk packs for principle storage medium with back-up maintained on magnetic tape.

Retrievability:

Retrieved by Foreman Code, Military/Civilian Code, Resource Control Center.

Safeguards:

All personnel authorized to add, change, or delete records from these files will be issued individually coded badges which are required for submission of transactions. Maintenance activity managers requiring access to update files must request information through the Data Automation Branch. All products containing Privacy Act information bear a notice at the top of each sheet, "Personal Data—Privacy Act of 1974 (PL93-579) For Official Use Only." Products are controlled by manual distribution to requesting managers.

Retention and disposal:

All Privacy Act information contained in this system is deleted (1) in

the case of the Employee Assignment Master File, at the end of the biweekly pay period following termination of an individual's assignment to a maintenance activity, and (2) in the case of files containing loan data, at the end of fifteen months following termination of an employee loan.

System manager and address:

Directorate of ADP Resources Office of DCS/Comptroller, Headquarters, Air Force Logistics Command, Wright-Patterson AFB, Ohio 45433.

Notification procedure:

Information may be obtained from the Air Logistics Center where an individual is employed: Chief, Cost Accounting Branch, Accounting and Finance Division, Comptroller, at Oklahoma City Air Logistics Center, Tinker AFB, Okla. 73145; Ogden Air Logistics Center, Hill AFB, Utah 84406; Sacramento Air Logistics Center, McClellan AFB, Calif. 95652; San Antonio Air Logistics Center, Kelly AFB, Tex. 78241; or Warner Robins Air Logistics Center, Robins AFB, Ga. 31093.

Record access procedures:

Requests from individuals should be submitted to the maintenance activity at the Air Logistics Center where employed. Written requests should contain the full name, social security number, address, telephone number, and current assignment within the maintenance activity of the requestor, and should be addressed to Director of Maintenance at: Oklahoma City Air Logistics Center, Tinker AFB, Okla. 73145; Ogden Air Logistics Center, Hill AFB, Utah 84406; Sacramento Air Logistics Center, McClellan AFB, Calif. 95652; San Antonio Air Logistics Center, Kelly AFB, Tex. 78214; or Warner Robins Air Logistics Center, Robins AFB, Ga. 31093. Request may also be made by personal contact between requestor and his/her supervisor within the maintenance activity.

Contesting record procedures:

The Air Force's rules for access to records and for contesting contents and appealing initial determinations by individuals concerned may be obtained from the systems manager.

Record source categories:

Information obtained from Civil Service Commission Standard Form 50 accompanying an employee into a maintenance activity, and from the Civilian Payroll System and Military Payroll System.

Systems exempt from certain provisions of the act:

None.

[FR Doc. 78-16153 Filed 6-8-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM77-14]

GAS RESEARCH INSTITUTE

Order Approving Research, Development and Demonstration Clauses and Related Rate Increases

JUNE 1, 1978.

In Opinion No. 11, issued on March 22, 1978, in the above-referenced docket, the Commission approved the initial research, development and demonstration (R.D. & D.) program of the Gas Research Institute (GRI). The Commission found, inter alia, that GRI's first year funding of approximately $9.5 million was just and reasonable and that the 1.2 mills per Mcf General R. & D. Funding Unit was the appropriate payment to GRI by its members to collect this amount. Also the Commission provided in Opinion No. 11 that members of GRI subject to the Commission's jurisdiction may collect such payments to GRI by filing with the Commission R.D. & D. cost adjustment provisions which comply with section 154.38(d)(5)(v) of the Commission's regulations and the requirements stated in ordering paragraph (G) of Opinion No. 11. Finally, the Commission provided that collection in advance of the 1.2 mill per Mcf surcharge through jurisdictional rates could commence on May 6, 1978.

Pursuant to these provisions of Opinion No. 11 the 28 pipeline companies listed on appendix A filed R.D. & D. clauses to track the funding of monies to GRI. With the exception of two companies, Northern Natural Gas Co. (Northern) and Northwest Pipeline Corp. (Northwest), the referenced companies filed 1.2 mill per Mcf rate increases [1] applicable to the GRI funding.

In response to the public notices of these filings, the organizations listed on appendix B filed petitions to intervene. The Commission finds that all listed petitioners have demonstrated an interest in this proceeding which warrants their participation. The petitions to intervene shall therefore be granted.

Northern and Northwest propose to defer tracking the GRI charge in their rates until their next PGA filing. Both companies propose to provide GRI with its funding timely and use deferred accounting treatment for the collection of GRI fundings.

Northern proposes to make its payments to GRI for the months of June 1978 through December 26, 1978, without increasing its rates during the period by entering such GRI monies in its Account 186 (Miscellaneous Deferred Debits). Northern proposes to include in its rates to be effective December 27, 1978, a 12-month surcharge to recover these amounts, together with the GRI unit charge proposed to be effective January 1, 1979.[2] Pursuant to its proposal, Northern will estimate the GRI amounts for the months of October through December 26, 1978, in its GRI surcharge effective December 27, 1978. Any differences between the estimated and actual amounts of the deferred GRI monies included in Account 186 would be adjusted for in Northern's GRI filing for 1980. Northern's deferral request was received in letter form only; no tariff sheets outlining its proposal were filed.

Northwest included as a part of its proposed GRI R.D. & D. clause, a provision to establish a deferred GRI funding account. This provision allows Northwest to make timely payment for its portion of the GRI funding for the period June 1978, through September 1978, by entering such paid amounts into a GRI deferred account, together with carrying charges [3] without increasing its rates during that period. Pursuant to its proposed R.D. & D. clause, Northwest would file a current GRI adjustment and a GRI surcharge both to be effective October 1, 1978. The GRI surcharge would be based on estimated amounts to recover the deferred GRI account inclusive of carrying costs over the next 6-month period. At the end of the 6-month period any remaining over or under collections would be credited to Northwest's PGA deferred account (Account 191).

Both Northern and Northwest state that their requested deferred account treatment for GRI trackings is necessary to reduce the frequency of rate changes. Both companies state that their customers have requested deferred trackings to alleviate tracking burdens. We believe that deferred account treatment for GRI funding in these two instances is appropriate since the treatment benefits both companies' customers and GRI receives its funding in a timely manner. However, we shall not approve Northwest's proposal for the inclusion of carrying charges in its deferred GRI account. Northwest has not provided information supporting its need for carrying charges nor is there any historical GRI cost background to indicate that carrying charges would be appropri-

[1] Some companies use system measurements other than Mcf such as dth or therm. These companies filed rate increases equivalent to 1.2 mill per Mcf.

[2] The proposed GRI unit charge for January 1, 1979, is not known at the present.

[3] The proposed carrying charge is at the currently effective interest rate of 9 percent prescribed in section 154.67(c) of the Commission's regulations.

ate.[4] Finally, we shall require Northern to reduce its deferred GRI accounting proposal to tariff form rather than letter request only.

Our review of the R.D. & D. clauses filed by the pipelines listed on appendix A indicates that, with the exception of Northwest's carrying charge proposal mentioned above, such clauses comply with section 154.38(d)(5)(v) of the Commission's regulations and ordering paragraph (G) of the Opinion No. 11. Accordingly, we shall approve these R.D. & D. cost adjustment provisions and require Northwest to file a revised R.D. & D. clause which does not provide for carrying charge on its deferred account.

As to the GRI rate increase filings reflecting the initial 1.2 mill per Mcf GRI adjustment, we have found that, subject to the discussion below, such increases are appropriate and properly reflect the Commission's instructions in ordering paragraphs (E) and (F) of Opinion No. 11.

El Paso Natural Gas Co. (El Paso) filed a substitute rate sheet (Substitute 4th Revised Sheet No. 1-D.2) to replace a rate sheet in its original GRI filing (Substitute 3rd Revised Sheet No. 1-D.2) and to update the underlying rates. El Paso states that the reason for the substitute tariff sheet is that subsequent to its original GRI filing the Commission approved its settlement agreement in Docket Nos. CP77-40 and RP77-97 which revised its base transportation rates. The substitute tariff sheet incorporates the revised base transportation rates. We shall accept Substitute 4th Revised Sheet No. 1-D.2 effective June 1, 1978 as requested by El Paso.

Columbia Gas Transmission Co.'s (Columbia) rate sheet (43rd Revised Sheet No. 16) reflects underlying settlement rates which are pending action at Docket Nos. RP76-94, RP76-95, RP76-138 and RP75-106, and underlying LNG rates pending action at Docket No. RP78-20. Our acceptance of Columbia's rate filing shall be conditioned on Columbia refiling tariff sheets which reflect those underlying rates which are in effect on the proposed effective date of June 1, 1978.

Colorado Interstate Gas Co. (CIG) filed three alternate sets of rate sheets all proposed to be effective June 1, 1978. However, on May 17, 1978, CIG filed a letter requesting that the effectiveness of its tariff sheet containing its "Gas Research Institute Charge Adjustment Provision" be deferred until October 1, 1978, and that the remaining tariff sheets filed by CIG which contain the 1.2 mill per MCF surcharge be disregarded by the Commission. CIG states that this action is necessary because CIG has not received assurances that its customers could pass-through GRI payments. We shall treat CIG proposed tariff sheets incorporating the 1.2 mill per Mcf surcharge as withdrawn. However, we shall reject CIG's proposal to defer the effective date of its proposed R.D. & D. clause until October 1, 1978, without prejudice to CIG refiling said tariff sheets in accordance with section 154.22 of the Commission's regulations, which provides that tariff changes may not be filed more than 60 days prior to the proposed effective date.

The Commission finds: Good cause exists to approve, subject to the conditions hereinafter stated, the R.D. & D. clauses and related rate filings which have been filed pursuant to Opinion No. 11.

The Commission orders: (A) The Commission hereby approves, subject to the conditions hereinafter stated, the R.D. & D. clauses and related GRI rate increases effective as of the dates shown on the attached Appendix A.

(B) CIG's proposal to defer until October 1, 1978, the effectiveness of the tariff sheets containing its proposed R.D. & D. clause, is hereby rejected without prejudice to CIG refiling said tariff sheets in accordance with the notice requirements of Section 154.22 of the Commission's Regulations. CIG's remaining tariff sheets incorporating the GRI surcharge are hereby deemed withdrawn and are of no force and effect.

(C) The Commission hereby accepts El Paso's substitute rate sheet (Substitute 4th Revised Sheet No. 1-D.2) which replaces its originally filed rate sheet (Substitute 3rd Revised Sheet No. 1-D.2).

(D) The rates contained in Columbia's 43rd Revised Sheet No. 16 are accepted for filing subject to Columbia refiling a revised rate sheet which reflects those underlying rates which are in effect on the proposed effective date of June 1, 1978.

(E) Northwest's R.D. & D. clause is hereby rejected without prejudice to Northwest refiling an R.D. & D. clause which does not contain a carrying charge provision.

(F) Northern's proposal for deferred billing of GRI payments is hereby accepted subject to the condition that Northern shall file, within 30 days of the issuance of this order, a revised tariff incorporating this proposal.

(G) The petitioners to intervene listed in Appendix B to this order shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[4] Northwest was permitted carrying charges in its PGA deferred account only after a showing that its purchased gas cost pattern indicated consistent undercollections in its PGA deferred account.

APPENDIX A.—*GRI filings*

Company	Volume No.	Sheet Nos.	Filed	Proposed effective
Algonquin Gas Transmission Co	1st revised vol. No. 1	1st revised sheet No. 100 original sheet Nos. 138 and 139 (original sheet Nos. 140-199 reserved for future use).	Apr. 5, 1978	May 6, 1978.
Cities Service Gas Co	Original vol. No.1	1st revised sheet Nos. 67-69, original sheet Nos. 70 and 71 (sheet Nos. 72-79 reserved for future use).	Apr. 7, 1978	May 23, 1978.
		1st revised sheet No. 6	do	Do.
Colorado Interstate Gas Co	2d revised vol. No. 1	22d revised sheet Nos. 5 and 6, 1st revised sheet No. 67B, original sheet No. 67C.	Apr. 6, 1978	June 1, 1978.
		Substitute 20th revised sheet Nos. 5 and 6	do	Do.
		Replaces substitute 20th revised sheet Nos. 5 and 6.	do	Do.
Columbia Gas Transmission Co	Original vol. No. 1	43d revised sheet No. 16, original sheet No. 65 (sheet Nos. 66-68 reserved for future use).	do	June 1, 1978.
Consolidated Gas Supply Corp.[1]	3d revised vol. No. 1	Original sheet No. 75-A	Apr. 5, 1978	May 6, 1978.
East Tennessee Nautural Gas Co	6th revised vol. No. 1	2d revised sheet No. 74D	Apr. 6, 1978	June 1, 1978.
		Original sheet No. 74E	do	Do.
		26th revised sheet No. 4	do	Do.

APPENDIX A.—*GRI filings*—Continued

Company	Volume No.	Sheet Nos.	Filed	Proposed effective
El Paso Natural Gas Co [2]	Original vol. No. 1	2d substitute 21st revised sheet No. 3-B	do	Do.
		2d revised sheet No. 68	do	Do.
		Original sheet Nos. 68-A and 68-B	do	Do.
	3d revised vol. No. 2	2d substitute 11th revised sheet No. 1-D	do	Do.
		Substitute 3d revised sheet No. 1-D.2	do	Do.
	Original vol. No. 2-A	2d substitute 13th revised sheet No. 1-C	do	Do.
		1st substitute 10th revised sheet No. 1-D	do	Do.
Florida Gas Transimission Co	Original vol. No. 1	17th revised sheet No. 3-A	Apr. 3, 1978	Do.
		1st revised sheet No. 22-M	do	Do.
		Original sheet No. 22-N	do	Do.
Great Lakes Gas Transmission Co	1st revised vol. No. 1	Original sheet No. 56A	Apr. 6, 1978	Do.
		27th revised sheet No. 57	do	Do.
	Original vol. No. 2	2d revised sheet No. 123	do	Do.
Kansas-Nebraska Natural Gas Co., Inc.	3d revised vol. No. 1	4th revised sheet No. 4*	Apr. 11, 1978	Do.
		1st revised sheet No. 27	do	Do.
		Original sheet No. 27A	do	Do.
		5th revised sheet No. 4	Apr. 17, 1978	Do.
Kentucky West Virginia Gas Co	1st revised vol. No. 1	1st revised sheet Nos. 8, 10, 28 (original sheet Nos. 29-37 reserved for future use) 1st revised sheet No. 38.	Apr. 24, 1978	Do.
Michigan Wisconsin Pipe Line Co	2d revised vol. No. 1	8th revised sheet No. 1	Apr. 6, 1978	Do.
		1st revised sheet No. 27E (iii) original sheet No. 27E (iv) 20th revised sheet No. 27F.	do	Do.
Midwestern Gas Transmission Co	3d revised vol. No. 1	22d revised sheet No. 5	do	Do.
		5th revised sheet No. 5A	do	Do.
		2d revised sheet No. 43	do	Do.
		1st revised sheet No. 95G	do	Do.
		Original sheet No. 95H	do	Do.
	Original vol. No. 2	1st revised sheet Nos. 52 and 62K	do	Do.
Mississippi River Transmission Corp	1st revised vol. No. 1	Original sheet No. 3C	Apr. 10, 1978	Do.
		Original sheet No. 27L	do	Do.
National Fuel Gas Supply Corp	Original vol. No. 1	17th revised sheet No. 4	Apr. 7, 1978	Do.
		1st revised sheet No. 36A	do	Do.
		2d revised sheet No. 37	do	Do.
		Original sheet No. 37A	do	Do.
Natural Gas Pipeline Co. of America	3d revised vol. No. 1	34th revised sheet No. 5	Apr. 6, 1978	Do.
		9th revised sheet No. 5A	do	Do.
		Original sheet No. 5B	do	Do.
		Original sheet No. 145	Apr. 18, 1978	Do.
		Original sheet No. 146	Apr. 6, 1978	Do.
		1st revised sheet Nos. 140-142	Apr. 18, 1978	Do.
Northern Natural Gas Co	do	2d revised sheet Nos. 71 and 72	Apr. 17, 1978	Do.
	Original vol. No. 2	1st revised sheet No. 1i	do	Do.
		Original sheet No. 1j	do	Do.
Northwest Pipeline Co	Original vol. No. 1	Original sheet Nos. 61-63	Apr. 6, 1978	Do.
Pacific Gas Transmission Co	do	1st Revised sheet Nos. 10 and 16	Apr. 7, 1978	Do.
		Original sheet No. 27A	do	Do.
Panhandle Eastern Pipe Line Co	do	23d revised sheet No. 3-A	Apr. 6, 1978	Do.
		Original sheet No. 3-B	do	Do.
		Original sheet No. 53-5	do	Do.
Southern Natural Gas Co	6th revised sheet No. 1	29th revised sheet No. 4A, 1st revised sheet No. 45H, original sheet Nos. 45I and 45J.	do	Do.
Tennessee Gas Pipeline Co	9th revised vol. No. 1	21st revised sheet Nos. 12A and 12B	do	Do.
		2d revised sheet No. 213L	do	Do.
		1st revised sheet No. 2130	do	Do.
		Original sheet Nos. 213P and 213Q	do	Do.
	6th revised vol. No. 2	1st revised sheet No. 267K	do	Do.
Texas Eastern Transmission Corp	4th revised vol. No. 1	Revised 40th revised sheet No. 14	do	Do.
		1st revised sheet No. 116	do	Do.
		Original sheet No. 117 (sheet Nos. 118-141 reserved for future use).	do	Do.
Texas Gas Transmission Corp	3d revised vol. No. 1	23d revised sheet No. 7	Apr. 3, 1978	Do.
		Original sheet No. 107 (sheet Nos. 108-125 reserved for future use).	do	Do.
Transcontinental Gas Pipe Line Corp	2d revised vol. No. 1	6th revised sheet No. 12	Apr. 6, 1978	Do.
		5th revised sheet No. 15	do	Do.
		Original sheet Nos. 252 and 253 (sheet Nos. 254-299 reserved for future use).	do	Do.
	Original vol. No. 2	14th revised sheet No. 121	do	Do.
		3d revised sheet Nos. 637 and 670	do	Do.
		2d revised sheet No. 745	do	Do.
		1st revised sheet No. 912	do	Do.
		3d revised sheet. No. 996	do	Do.
		3d revised sheet No. 1028	do	Do.
		1st revised sheet Nos. 1268-A, 1282-A, 1294-A, 1397, 1404, and 1411.	do	Do.
Transwestern Pipeline Co	2d revised vol. No. 1	Revised 9th revised sheet No. 5	do	Do.
		1st revised sheet No. 79	do	Do.
		Original sheet No. 80	do	Do.
		1st revised sheet Nos. 81-104 (reserved for future use).	do	Do.
Trunkline Gas Co	Original vol. No. 1	22d revised sheet No. 3-A	do	Do.
		Original sheet Nos. 21-K and 21-L	do	Do.
United Gas Pipe Line Co	1st revised vol. No. 1	43d revised sheet No. 4	do	Do.
		Original sheet Nos. 74J and 74-K	do	Do.
	Original vol. No. 2	7th revised sheet No. 187	do	Do.
		1st revised sheet Nos. 397, 401, and 407	do	Do.
		4th revised sheet No. 448	do	Do.
		1st revised sheet No. 909	do	Do.
		2d revised sheet No. 957	do	Do.

APPENDIX A.—*GRI filings*—Continued

Company	Volume No.	Sheet Nos.	Filed	Proposed effective
Algonquin Gas Transmission Co	1st revised vol. No. 1	40th revised sheet No. 10	May 1, 1978	Do.
		4th revised sheet No. 10-A	do	Do.
Consolidated Gas Supply Corp	3d revised vol. No. 1	3d revised sheet No. 16	Apr. 27, 1978	Do.
El Paso Natural Gas Co	3d revised vol. No. 2	Substitute 4th revised sheet No. 1-D.2	May 1, 1978	Do.

[1] See page 7 for rate sheet.
[2] See page 7 for substitute rate sheet.
[3] This sheet was improperly numbered and was replaced by 5th revised sheet No. 4.

APPENDIX B.—*Petitions to intervene at docket No. RM77-14 (GRI)*

Intervenor and Pipeline Supplier

Cascade Natural Gas Corp.—Northwest Pipeline Corp.
Southern California Gas Co.—El Paso Natural Gas Co.
Southern California Gas Co. and Pacific Lighting Service Co.—Transwestern Pipeline Co.
Atlanta Gas Light Co.—Southern Natural Gas Co.
Iowa State Commerce Commission—Michigan Wisconsin Pipe Line Co.
Iowa State Commerce Commission—Natural Gas Pipeline Co. of America
Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin)—Midwestern Gas Transmission Co.
State of Louisiana—United Gas Pipe Line Co.
Wisconsin Gas Co.—Michigan Wisconsin Pipe Line Co.
Wisconsin Natural Gas Co.—Michigan Wisconsin Pipe Line Co.

[FR Doc. 78-15836 Filed 6-8-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

Week of March 20 through March 24, 1978

Notice is hereby given that during the week of March 20 through March 24, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

APPEALS

Atlantic Richfield Co., Los Angeles, Calif., DFA-0151, Freedom of Information

The Atlantic Richfield Co. (Arco) appealed from a partial denial by the DOE Information Access Officer of a Request for Information which the firm had submitted under the Freedom of Information Act (the Act). Arco had originally sought the disclosure of certain documents relating to the DOE Transfer Pricing Program (10 CFR 212.84). On September 27, 1977, the Information Access Officer released portions of the information requested, including portions of a computer printout listing summaries of the price and volume of transactions in various crude oils which had been reported to the DOE. However, the Information Access Officer withheld the portions of the printout which listed the aggregate quantities and average prices for crude oils in months when three or fewer firms participated in the transaction. In an Appeal Decision which it issued on December 7, 1977, the DOE determined that certain portions of the printout which had previously been withheld should be released to Arco. *Atlantic Richfield Company*, 1 DOE Par. 80,139 (December 7, 1977). Pursuant to that determination, the Information Access Officer on January 17, 1978 released the deleted portions of the printout which involved transactions among three or more firms. In its Appeal of the January 17 Order, Arco sought the release of the remainder of the withheld portions of the printout. In considering Arco's Appeal, the DOE determined that the firm had not presented any arguments in support of its claim which were different from those presented in its first Appeal, and had merely reiterated the contentions which were previously considered and ultimately rejected by the DOE. The DOE therefore denied the Appeal.

Diversified Chemicals and Propellants Co., Oak Brook, Ill., FIA-1370, propane and butane

Diversified Chemicals and Propellants Co. (Diversified) appealed from an Interpretation which was issued to it by the Regional Counsel of FEA Region VI. Interpretation 1976-24, 42 FR 10963 (1977). In the Interpretation, the Regional Counsel held that the propane and butane that Diversified sells for use as aerosol propellant were "covered products" as defined by § 212.31 and that as a consequence sales of those products were subject to the provisions of the Mandatory Petroleum Price Regulations. On appeal, Diversified argued that Congress did not intend in the Emergency Petroleum Allocation Act of 1973 (EPAA) to authorize the regulation of petroleum products that are not used as fuels. In considering this argument, the DOE pointed out that the EPAA contains no such limitation on its scope, and that in fact it specifically refers to the regulation of several non-fuel petroleum products such as refined lubricating oils and petrochemical feedstocks such as propane and naphtha. The DOE observed that the shortages of crude oil and refined petroleum products which led Congress to enact the EPAA affected the markets for non-fuel petroleum products to no less an extent than it did the markets for petroleum products which are used as fuels, and that the objectives of the EPAA could not therefore have been fully attained without the regulation of all refined petroleum products without regard to their end use. In addressing the arguments raised by other parties to the Appeal proceedings, the DOE found no merit in the contention that an earlier regulatory definition of the term "covered products" excluded hydrocarbon aerosol propellants. Finally, the DOE held that since the Interpretation merely explained and applied a regulation already in existence, its issuance did not constitute a retroactive rulemaking, nor was it a "major federal action" as that term is defined in the National Environmental Policy Act of 1969, which would have required the preparation of an Environmental Impact Statement. The Diversified Appeal was therefore denied.

Coastal States Gas Corp., Houston, Tex., FXA-1346, natural gas liquid products

The Coastal States Gas Corp. (Coastal States) filed an Appeal from a Decision and Order which was issued to it by the FEA on May 13, 1977. In the May 13 Order, which involved eight separate natural gas processing plants that are owned or operated by Coastal States, the FEA approved exception relief which permitted the firm to increase the prices which it charges for the natural gas liquids or products processed at those plants during the last six months of 1977 above the levels established under the provisions of 10 CFR 212.165. In its Appeal, Coastal States contended that the May 13 Decision erred in using the figure $.00375 as the permissible non-product cost increase passthrough for its Almeda fractionator plant. Coastal States pointed out that the feedstocks processed at the Almeda facility consist of natural gas liquids which have previously been extracted by other gas plant operators, and that the firms which initially extracted the liquids are entitled to the $.00375 per gallon passthrough specified in § 212.165. Since the maximum passthrough for natural gas liquid products in Section 212.165 is $.005 per gallon, Coastal States contended that the proper passthrough for the Almeda fractionation operation should not exceed $.005 minus $.00375, or $.00125 per gallon. In considering the Appeal, the DOE determined that Coastal States' position was correct, and that under § 212.165, the maximum amount which the firm may add to its natural gas liquid product prices to reflect non-product cost increases at the Almeda fractionator is limited to $.00125 per gallon. The Appeal was therefore granted.

Florida Gas Co., Winter Park, Fla., FXA-1459, natural gas liquid products

The Florida Gas Co. (FGC) filed an Appeal from a Decision and Order which was issued to the firm by the EEA on August 3, 1977. The August 3 Decision denied an Application for Exception filed by FGC from the provisions of 10 CFR, Part 212, Subpart K, in which the firm requested relief to increase the sale prices of products from its natural gas liquid processing plant located in Brooker, Fla. FGC had received an Order from the Federal Power Commission (FPC) curtailing its use of natural gas as a plant fuel at the Brooker plant effective February 18, 1978, and claimed that it must undertake a substantial capital investment project to convert the Brooker plant to utilize diesel fuel as a substitute plant fuel. In denying FGC's exception request, the August 3 Order noted that FGC's cost of diesel plant fuel would be a non-product cost and the § 212.165 permits a processor of natural gas liquid products to increase its prices to recover certain non-product cost increases. The Order also noted that under *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975) a natural gas processor whose actual non-product cost increases exceed the passthrough limitations specified in Section 212.165 may seek a full passthrough of the actual increase.

In its Appeal, FGC claimed that the delay in cost recovery which is inherent in the *Superior* line of cases would result in its Brooker plant incurring financial losses, or only marginal profits during 1978. As a result, FGC contented that it did not have any economic incentive to make the necessary plant conversation. In considering the Appeal, the DOE noted that the *Superior* principles should not be rigidly applied if their application would not alleviate or prevent a hardship or inequity to the firm. In addition, the DOE found that FGC had convincingly demonstrated that the Brooker plant could incur financial losses if the firm was required to wait nine to twelve months to recover the higher diesel fuel costs which would be incurred immediately upon converting the Brooker plant. The DOE concluded that this situation resulted in a gross inequity warranting additional exception relief. Accordingly, the Appeal was granted.

Gulf Oil Corp., Houston, Tex., FRA-1423, motor gasoline

The Gulf Oil Corp. filed an Appeal from a Remedial Order which was issued to the firm by FEA Region III on July 22, 1977. The July 22 Order constituted the second modification of an earlier Remedial Order in which the FEA had found that between August 20, 1973 and the date of that Order, Gulf had been charging Anthony Weber a rental for a retail gasoline station located in Plymouth, Mich. which exceeded the maximum rental which Gulf was permitted to charge under the Economic Stabilization Program and the Mandatory Petroleum Price Regulations. Since the Temporary Emergency Court of Appeals (TECA) had determined on November 11, 1975 that the rent regulations promulgated by the FEA were beyond the scope of the agency's authority after April 30, 1974, the first Remedial Order had previously been modified to reduce the period in which Gulf was found to have overcharged Weber to the period from August 20, 1973 to April 30, 1974. The second modified Remedial Order, permitted Gulf to offset the additional rent which it could have charged Weber between November 11, 1975, the effective date of FEA's rescission of the rent regulations, and December 7, 1975, the date on which Weber vacated the leased premises. In its Appeal, Gulf contended that the TECA decision should be given retroactive effect and that the firm should therefore be permitted an additional offset for the rent it could have charged from April 30, 1974 through November 11, 1975. In considering the Appeal, the DOE observed that it had previously fully considered and rejected Gulf's assertion that the TECA decision should be given retroactive effect. Since TECA was silent on the question of retroactivity, the DOE concluded that equitable considerations should govern the issue of whether that decision should be given retroactive effect. Since the retroactive application of the court decision would result in financial hardship to many small gasoline retailers, the DOE determined that the decision should be implemented on a prospective basis only. The DOE also found that Gulf's claim that it had never been properly informed of the method utilized by the FEA in calculating the overcharges was incorrect. In addition, the DOE rejected the firm's contention that the agency was estopped from using any other method of calculating the overcharges than one which Gulf had suggested at an earlier stage of the enforcement proceedings. On the basis of these findings, the DOE denied Gulf's Appeal.

Louisiana Land and Exploration Co., Washington, D.C., FXA-1376, crude oil

Louisiana Land and Exploration Co. (LL&E) filed an Appeal from a Decision and Order which the FEA issued to the firm on May 27, 1977. *Louisiana Land and Exploration Company*, 5 FEA Par. 83,165 (May 27, 1977). In a number of prior Decisions the FEA found that the provisions of the 10 CFR 211.63(b)(1) (January 1 Rule) which required LL&E to sell all of its Jay Field crude oil to Exxon Co., U.S.A., severely hampered the firm's ability to operate a refinery which it maintains in Mobile, Ala. The FEA therefore granted LL&E exception relief from the provisions of the January 1 rule to permit the firm to retain volumes of Jay Field crude oil to operate the Mobile refinery at 87.25 percent of its certified capacity. The May 27 Decision reduced LL&E's exception relief by an amount equal to the volume of crude oil which the firm obtained through exchange agreements. LL&E's Appeal, if granted, would have restored LL&E's exception relief to the level previously granted to the firm. In considering the Appeal, the DOE noted that the May 27 Decision was designed to give proper recognition to the interests of other parties affected by the exception relief granted to LL&E. However, the DOE found that this had created a situation which was contrary to a number of the expressed objectives of the Emergency Petroleum Allocation Act (EPAA). For example, under the terms of the May 27 Decision the LL&E had no incentive to attempt to obtain volumes of additional crude oil for use in the Mobile refinery. Under these circumstances, the DOE concluded that the provisions of the May 27 Division which reduced LL&E's exception relief on a barrel-for-barrel basis for any additional crude oil which the firm obtained, resulted in a gross inequity. The May 27 Decision was therefore modified to restore LL&E's exception relief to the level previously granted to the firm and the Appeal was granted.

Mullins & Prichard, New Orleans, La., FRA-1342, crude oil

Mullins & Prichard (Mullins) filed an Appeal from a Remedial Order which the Deputy Regional Administrator of FEA Region VI issued to the firm on May 9, 1977. In the Remedial Order, the Regional Office determined that Mullins had improperly treated two separate wells on the Myers lease as two separate properties and as a result had sold crude oil produced from the wells at unlawful price levels. On the basis of these findings, Mullins was directed to refund the overcharges which it had obtained. In its Appeal submission, Mullins contended that each well constituted a separate property since each well was subject to different drilling obligations and each well produced crude oil from a separate reservoir. In considering the Appeal, the DOE found that the two wells were subject to the same oil and gas lease and the different operating rights of each well did not arise out of the lease instrument itself. The DOE therefore determined that the two wells were subject to the same "right to produce" crude oil as that term is used in Ruling 1977-1 and as a result constituted a single property under the applicable regulatory provisions. The DOE also determined that the Regional Office was correct in finding that the separate reservoirs from which the wells produce crude oil do not qualify for treatment as separate properties on a retroactive basis under the criteria established in Ruling 1977-1. Accordingly, the Mullins Appeal was denied.

Pioneer Operations Co., Inc., Seminole, Okla., DRA-0039, crude oil

Pioneer Operations Co., Inc. appealed from a Remedial Order which DOE Region VII issued to the firm on November 11, 1977. In the Remedial Order, DOE Region VII found that Pioneer had improperly classified the Ben Rein and Flegler leases as stripper well properties and thereby sold the crude oil produced from the leases at prices which were in excess of those permitteed by the Mandatory Petroleum Price Regulations. In its Appeal, Pioneer contended that although under the express terms of Ruling 1975-12 the Ben Rein No. 5 and Flegler No. 4 wells did not qualify as multiple completion wells, the Ruling itself was arbitrary and capricious and therefore invalid. Pioneer stated that if the two wells qualify as multiple completion wells, the leases would also qualify as stripper well properties during the entire audit covered by the Remedial Order. In considering the Pioneer Appeal, the DOE noted that Ruling 1975-12 did not limit the definition of a stripper well lease, but in fact broadened that definition by including certain multiple completion wells. The DOE also determined that Pioneer's failure to meet the definitional requirements for classification as multiple completion well does not in and of itself render the FEA's application of Ruling 1975-12 to the firm arbitrary and capricious. Accordingly, Pioneer's Appeal was denied.

R. V. Whitmer Thermogas Co., Wauseon, Ohio, FXA-1360, propane

The R.V. Whitmer Thermogas Co., Inc. filed an Appeal from a Decision and Order which was issued by the FEA on April 29, 1977. In that Decision the FEA denied Whitmer's request for exception relief which would permit the firm increase the prices which it may currently charge on its sales of propane above the maximum levels permitted by the provisions of 10 CFR 212.93, and retain the revenues which it might have realized during the period subsequent to November 1, 1973 as a result of charging unlawful prices for propane. In its Appeal, Whitmer argued that the April 29 Decision was erroneous and maintained that its gross margin on sales of propane on May 15, 1973 was unrepresentative of its normal operations and insufficient to enable it to realize a profit. The firm also argued that it was operating at a loss on May 15, 1973 and that this fact alone should demonstrate that an unusual event occurred during the base period which seriously distorted the intended use of that period for measurement purposes. In evaluating the Whitmer Appeal, the DOE found that the data submitted by the firm failed to substantiate its claim that its gross margin on May 15, 1973 was unusually low or unrepresentative. The DOE also noted that although Whitmer claimed that it had incurred a loss in May 1973, this loss was the apparent result of the particular method of cost allocation adopted by the firm. In addition, the Doe found that Whitmer would have operated on a profitable basis even if it had not received any overcharge revenues. In view of these findings, the DOE found that Whitmer had not demonstrated that the prior Decision and Order denying exception relief was erroneous. Accordingly, the Whitmer Appeal was denied.

REQUESTS FOR EXCEPTION

Fords Brook, Inc., Bolivar, N.Y., FEE-4834, crude oil

Fords Brook, Inc. (Fords Brook) filed an Application for Exception from the provisions of 10 CFR, part 212, Subpart D which, if granted, would permit the firm to sell at market price levels the crude oil from a well which it intends to recomplete on the Petre property located in Allegheny County, N.Y. In considering the Fords Brook application, the DOE found that a substantial expenditure is necessary to recomplete the well and purchase the equipment which is necessary to commence operations at the lease. The DOE further determined that the crude oil production estimates provided by the firm indicate that the investment would be uneconomic if the crude oil which will be produced from the property prior to its qualification as a stripper well were to be sold at upper tier ceiling prices. Moreover, the DOE determined that approximately 600 barrels of crude oil could be recovered to meet the nation's energy resource requirements if the well is recompleted. The DOE therefore determined that exception relief should be granted to Fords Brook which would provide it with a sufficient economic incentive to undertake the capital investment project at the Petre property.

Hanover Management Co., Dallas, Tex., DXE-0099, crude oil

The Hanover Management Co. (Hanover) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of the exception relief previously granted to the firm and would thereby permit Hanover to continue to sell the crude oil produced from the Fruin "A" No. 1 Well for the benefit of the working interest owners at upper tier ceiling prices. *Hanover Management Company*, 6 FEA Par. 83,006 (June 14, 1977). In considering the request, the DOE determined that Hanover was continuing to experience increased operating costs in connection with the well and that in the absence of a continuation of exception relief the working interest owners would lack an economic incentive to maintain their crude oil production activities. The DOE also determined that the operating results of the first fiscal quarter of 1973 were most representative of the firm's normal operating experience, and consequently should be utilized for purposes of calculating the proper amount of exception relief to which the firm is entitled. In view of these considerations and on the basis of recent operating data which the firm provided, Hanover was permitted to sell at upper tier ceiling prices 97.28 percent of the crude oil produced from the Fruin well for the benefit of the working interest owners.

Hunt Industries, Dallas, Tex., FXE-4512, natural gas liquids

Hunt Industries filed an Application for Exception from the provisions of 10 CFR 212.165. The exception request, if granted, would permit Hunt to increase its selling prices for the natural gas liquids produced from the Zoller plant to reflect nonproduct cost increases in excess of the passthrough permitted under the provisions of § 212.165. On September 22, 1977, the FEA issued a Proposed Decision and Order to Hunt which determined that Hunt's Application for Exception be granted. In that Proposed Decision, the FEA calculated Hunt's current nonproduct costs per unit on the basis of production data from the fourth quarter of 1976 and the second quarter of 1977, and expense data from the first and second quarters of 1977. The FEA excluded production data from the first quarter of 1977 because the Zoller plant was shut down for 53 days during that quarter. On October 25, 1977, Hunt filed a Statement of Objections of the Proposed Decision and Order in which it contended that since the FEA excluded production data for the first quarter of 1977, the agency should also have excluded the cost data for that period. In considering the Statement of Objections, the DOE determined that the data used to calculate Hunt's exception relief was representative of normal operations at the Zoller plant, and that Hunt had not presented any material to demonstrate that the criteria which were employed were arbitrary or capricious, or that the factual findings of the Proposed Decision were in any way erroneous. In view of these considerations, the DOE concluded that the Proposed Decision and Order should be issued in final form.

Southland Royalty Co., Fort Worth, Tex., DEE-0450, crude oil

Southland Royalty Co. (Southland) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit Southland to sell the crude oil produced from the Aztec Totah Unit (the Aztec Unit) located in San Juan County, N. Mex., at exempt price levels. In considering the exception request, the DOE found that Southland's operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Aztec Unit. The DOE also determined that if Southland abandoned its operations at the Aztec Unit, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous Decisions, the DOE determined that Southland should be permitted to sell at upper tier ceiling prices 63.46 of the crude oil produced from the Aztec Unit for the benefit of the working interest owners during the six month period, March 1, 1978 through August 31, 1978.

REQUEST FOR STAY

Lunday-Thagard Oil Co., South Gate, Calif., DES-0046, crude oil

Lunday-Thagard Oil Co., filed an Application for Stay in which the firm requested that it be relieved of all entitlement purchase obligations which would otherwise be imposed on the firm prior to the issuance of a final Decision and Order on an Application for Exception which it filed on October 20, 1977. A Proposed Decision and Order was issued with respect to the firm's Application for Exception on December 20, 1977 and Lunday-Thagard filed a Statement of Objections to the Proposed Decision. In considering the stay request, the DOE noted that although the firm's January entitlement obligation was expected to be at an unusually high level, the firm will be able to recover in subsequent months most of the funds required to satisfy that obligation. The DOE therefore concluded that the firm had not demonstrated a likelihood of success on the merits of its Statement of Objections. The DOE also found that the data submitted in connection with the Application for Stay did not indicate that the firm would experience an irreparable injury in the event that the stay relief is denied. Accordingly, Lunday-Thagard's request for stay was denied.

Supplemental Orders

Bassett Oil and Equipment Co., Inc., Bassett, Va., DRX-0052, Kerosene and No. 2 Fuel Oil

On March 1, 1978, Bassett Oil and Equipment Co., Inc., (Bassett) filed an Appeal from a revised Remedial Order which was issued to the firm by the Director of Enforcement of DOE Region III on January 18, 1978. That Remedial Order was first issued to Bassett on April 13, 1977. In an August 3, 1977 Appeal Decision, *Bassett Oil and Equipment Co., Inc.*, 6 FEA Par. 80,529 (August 3, 1977), the FEA found that the April 13 Remedial Order did not sufficiently explain certain aspects of the calculation of Bassett's increased product costs. On the basis of this finding, the Remedial Order was remanded to the Region III Office for a more precise calculation of the firm's refund obligation. As directed by the August 3 Decision, a revised Remedial Order was issued to Bassett on January 18, 1978. As part of its Appeal from the January 18 revised Remedial Order, Bassett made a number of procedural requests relating to the consideration of the present Appeal. For example, Bassett requested that the Office of Administrative Review treat the revised Remedial Order as if it were a Proposed Remedial Order which had been issued pursuant to the interim procedural regulations which were issued by the DOE on January 6, 1978. In considering this request, the DOE observed that all issues relating to Bassett's liability for overcharges were fully adjudicated in the August 3 Decision and Order which was issued in response to the Bassett Appeal, and the scope of the issues which would be considered on remand was limited to a reconsideration of the amount of the overcharge. Therefore, unlike a Proposed Remedial Order which is issued for the first time, a full administrative review of all of the issues raised in the enforcement proceeding had already taken place. Under these circumstances, the DOE determined that the procedures which governed Appeals of Remedial Orders which were filed prior to November 15, 1977 are applicable to the present Bassett Appeal. Bassett also contends that even if the new administrative procedures are not applicable in this case, the DOE should convene an evidentiary hearing in this matter and provide the firm with an opportunity for discovery. In considering this aspect of the Bassett submission, the DOE observed that Bassett had failed to make the type of showing which would lead to the conclusion that an evidentiary hearing should be convened or discovery permitted in this matter. Finally, the DOE determined that its consideration of the present Bassett Appeal will be limited in scope to those issues relating to the remand and subsequent reissuance of the April 13 Remedial Order.

Charter Oil Co., Jacksonsville, Fla., DEX-0043, Crude Oil

On March 20, 1978, the DOE issued a Decision and Order to Charter Oil Co. staying that firm's obligation to purchase entitlements to the extent of the exception relief specified in a Proposed Decision and Order which was also issued to the firm on March 20, 1978.

Commonwealth Oil Refining Co., Inc., Washington, D.C., DEX-0047, Crude Oil

On April 14, 1977, the DOE issued a Decision and Order to Commonwealth Oil Refining Co., Inc. (Corco), which granted in part an Application for Exception which Corco had filed from the provisions of 10 CFR 211.67. *Commonwealth Oil Refining Co., Inc.*, 5 FEA Par. 83,132 (April 14, 1977). The relief which was approved resulted in an increase in the number of entitlements which the firm receives and is permitted to sell. However, the factual situation in the Corco case changed significantly since the issuance of the April 14 Order. On March 2, 1978, Corco filed a petition for protection under Chapter 11 of the federal bankruptcy laws with the United States District Court in San Antonio, Tex. Furthermore, on several occasions Corco's bank deposits, which would otherwise have been available to defray current operating costs, were set off by Corco's creditors in payment for loan obligations incurred by the firm in the past. Since the exception relief granted in the April 14 Order was intended by the FEA to be applied to Corco's operating expenses, certain procedures were adopted on an interim basis in order to ensure that the exception relief is being utilized for this purpose.

Little America Refining Co., Washington, D.C., DEX-0048 Crude Oil

On March 20, 1978, the DOE issued a Decision and Order to the Little America Refining Co. staying that firm's obligation to purchase entitlements to the extent of the exception relief specified in a Proposed Decision and Order which was also issued to the firm on March 20, 1978.

Little America Refining Co., Washington, D.C., DEX-0049 Crude Oil

On September 19, 1977 the FEA issued a Proposed Decision and Order to the Little America Refining Co. in which it expressed a preliminary determination to grant in part an Application for Exception which had submitted from the provisions of 10 CFR 211.67 (the Entitlements Program). On October 18, 1977 the DOE issued a Decision and Order staying that firm's obligation to purchase entitlements to the extent specified in the September 19 Proposed Decision and Order. Although Larco filed a Statement of Objections to the September 19 Proposed Decision, no final determination had as yet been issued with respect to LARCO's entitlement purchase obligations for the September 1977 through February 1978 period. However, under the specific terms of the October 18 Stay Order, LARCO would continue to receive stay relief in the amount specified in that order even though the six month exception relief period specified in the Proposed Decision and Order had expired. Accordingly, the October 18 Stay Order was amended to state that the stay relief was applicable only to the six month period September 1977 through February 1978.

Summary Decisions

The following firm filed an Application for Stay of Remedial Order which had been issued by the DOE. In considering the stay request, the DOE referred to a recent Decision in *Rickelson Oil and Gas Co.*, 6 FEA Par. 85,029 (August 24, 1977), in which it held that a Remedial Order will generally be stayed pending the determination of an Appeal unless it appeared that the public interest required immediate compliance with the Remedial Order. Since the record in this case did not indicate that the public interest required immediate compliance with the Remedial Order, the DOE granted the request for stay pending the determination of the Appeal:

Mike Kahn, Seminole, Okla., DRS-0126

Dismissals

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Dynamic Exploration, Inc., Lafayette, La., DEE-0393

The following request for intervention was dismissed on the grounds that the applicant was not an aggrieved party:

Blue Flame Gas Corp., Fort Wayne, Ind., DEZ-0147

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Sentry Refining, Inc., Washington, D.C., FEA-1371

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

JUNE 2, 1978.

[FR Doc. 78-15988 Filed 6-8-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

CENTRAL VALLEY PROJECT

Order Denying Request for Reconsideration of ERA's Order Establishing Interim Rates

Notice is hereby given that the Assistant Administrator for Utility Systems, Economic Regulatory Administration has issued the Order published below denying a request for reconsideration and modification of the Order Establishing Interim Rates for the Central Valley Project, Western Area Power Administration, issued March 20, 1978.

UNITED STATES OF AMERICA, DEPARTMENT OF ENERGY

ECONOMIC REGULATORY ADMINISTRATION

ORDER

[ERA Docket No. WAPA 78-1]

By letter dated April 20, 1978 the irrigation customers of the Central Valley Project requested the Economic Regulatory Administration (ERA) to reconsider and to modify its "Order Establishing Interim Rates" (Order) [1] to grant the irrigation customers a preferential rate. The letter of the irrigation customers indicates that it was served upon all parties to the proceeding.

The Order established for a one year period an interim rate for all Central Valley Project (CVP) customers which consisted of a $2/kW/mo demand charge and a 4.2 mills/kWh energy charge. The Order reflects ERA's belief that until the customers are afforded a reasonable opportunity to comment on a proposed final rate structure it would not be appropriate to decide or prejudge any issues relevant thereto.

In its letter the irrigation customers argue that contrary to the intention of the interim rate Order, the establishment of an identical interim power rate for all CVP customers prejudges and rejects the position of the irrigation customers that they are entitled to a 2.5 mill pumping rate. ERA rejects that argument and believes that the Order is clear on this point. The Assistant Secretary for Resource Applications (Assistant Secretary) is directed by the Order "to fully address, in its final proposed rate, the appropriateness of the Alternative A and Alternative B rates, and *other rates* that may be considered prior to the submission of the proposed final rate." [Emphasis added.] ERA considers that the rate suggested by the irrigation districts to be an example of such "other rates."

Moreover, the rate structure suggested by the irrigation customers would require a fundamental change in the Western Area Power Administration's pricing policies because at the present time only federally owned irrigation pumping facilities are entitled to a special project rate for irrigation pumping. The irrigation pumping facilities involved in this proceeding are not federally owned. It is ERA's understanding that the Assistant Secretary is studying the question of irrigation pumping rates for federally and non-federally owned facilities in preparation for developing proposed final rates in the CVP proceeding. ERA believes that it would be inappropriate for ERA to prejudge this issue until the Assistant Secretary has made his final recommendation as to the proper rate structure for CVP.

Therefore, ERA will not, at this time, consider the substantive arguments set forth by the irrigation customers or any other customers regarding an appropriate CVP rate structure. The structure of a final rate adjustment is a matter which should properly be developed during the supplemental comment proceedings being conducted by the Assistant Secretary. ERA expects that when the Assistant Secretary proposes a final rate he will address the contentions of all of the interested parties regarding a proper final rate structure.

As stated in the Order, if it is ultimately determined that the irrigation customers or any other customer should be charged a rate lower than that established by the interim rate Order, a refund of the over charges plus simple interest at the rate of 7 percent per annum will be made. ERA believes that this procedure protects the rights of all CVP customers and does not prejudge any issues.

For the foregoing reasons the request for reconsideration and modification of the Order Establishing Interim Rates is denied.

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[1] The Order was issued March 20, 1978 and is published at 43 FR 12361-63 (March 24, 1978).

Issued in Washington, D.C., this 5th day of June, 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-15986 Filed 6-8-78; 8:45 am]

[3128-01]

[ERA Docket No. SWPA 78-2]

SOUTHWESTERN POWER ADMINISTRATION

Conditional Extension of Existing Rates and Notice of Intent to Confirm and Approve Extension

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Conditional extension of existing rates and Notice of Intent to exercise final confirmation and approval authority with respect to the requested extension.

SUMMARY: On May 19, 1978, the Assistant Secretary for Resource Applications requested the Administrator of the Economic Regulatory Administration to extend confirmation and approval of certain existing rates of the Southwestern Power Administration through December 1, 1978. The purpose of this Notice is to advise the public that: (1) The Administrator of ERA has conditionally extended the existing rates through December 1, 1978, and (2) the Administrator of ERA intends to exercise final confirmation and approval authority with respect to the requested extension and to invite interested parties to submit written comments. An opportunity for an oral presentation will be afforded upon request.

DATES: Written comments are due on or before July 10, 1978. Requests for an oral presentation are due June 19, 1978. If a public hearing is requested it will be held on June 30, 1978. Speakers may submit written copies of their oral presentation at the hearing.

ADDRESSES: Requests for an oral presentation and/or ten copies of written comments shall be submitted to: Office of Public Hearing Management, Box TV, Department of Energy, 2000 M Street NW., Room 2313, Washington, D.C. 20461. The public hearing, if held, will be in Room 2105, Department of Energy, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Jerry Nicholas, Office of Utility Systems, Economic Regulatory Administration, 1111 20th Street NW., Room 550, Washington, D.C. 20461, phone 202-254-9690.

Richard W. Manning, Office of the General Counsel, 12th and Pennsylvania Avenue NW., Room 6146, Washington, D.C. 20461, phone 202-566-9653.

SUPPLEMENTARY INFORMATION: Pursuant to section 301(b) of the Department of Energy Organization Act (Pub. L. 95-91), the function to confirm and approve power rates for the Southwestern Power Administration was transferred to the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, the Secretary of Energy delegated his confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA).

On September 22, 1977, the Federal Power Commission (FPC) issued an Order extending confirmation and approval of the Southwestern Power Administration's (SWPA) system rates through May 31, 1978 (FPC Docket No. E-7172). The Order granted SWPA's request for an extension on the ground that SWPA had submitted a schedule for the filing of new rates, but the Order noted that the FPC would not grant any further extensions beyond May 31, 1978.

On May 19, 1978, the Assistant Secretary for Resource Applications (Assistant Secretary) requested the Administrator of the Economic Regulatory Administration (ERA) to extend confirmation and approval of the existing SWPA system rates through December 1, 1978, or until such earlier date that new rates are confirmed and approved. The stated purpose of this request is to allow additional time for the Assistant Secretary to develop new rates. The Assistant Secretary has invited public comment on the new rates and has stated that he intends to submit new rates for confirmation and approval by ERA on or before September 1, 1978.

The rates requested to be extended are contained in the following rate schedules:

Rate Schedule F-1 (Firm Power)
Rate Schedule P-2 (Revised) (Peaking Power)
Rate Schedule EE (Excess Energy)
Rate Schedule IC (Interruptible Capacity)
Contract No. 14-02-001-864 (with Tex-La Electric Cooperative, Inc.)

Pending final action on the requested extension, ERA has determined that the public interest would best be served by immediately extending on a conditional basis the existing rates through December 1, 1978.

The public is invited to submit comments, as set forth in this Notice, relative to the request for the extension of the existing rates. At the conclusion of the comment procedure the Administrator of ERA will take final action on the SWPA request.

COMMENT PROCEDURES: Interested persons are invited to submit comments with respect to the subject matter set forth in this Notice to: Public Hearing Management, Box TV, Room 2313, Department of Energy, 2000 M Street NW., Washington, D.C. 20461. Such written comments may be mailed or hand delivered and should be received by 4:30 p.m., e.d.t., on July 10, 1978.

Any person who has an interest in this matter or is a representative of a group or class of persons that has an interest in it may make a written request for an opportunity to make an oral presentation at a public hearing. Such a request can be mailed or hand delivered to: Public Hearing Management, Box TV, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.d.t., on June 19, 1978.

The request shall state the name of the person making the request, identify the interest represented and if appropriate state why he or she is a proper representative of a group or class of persons that has an interest, give a concise summary of the proposed oral presentation, and give a telephone number where the person may be contacted.

DOE reserves the right to select the persons to be heard, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited based on the number of persons requesting to be heard.

The public hearing, if any, will not be adjudicative in nature. A DOE official will be designated to preside at the hearing, if one is held. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding official.

The hearing, if held, will begin at 9:30 a.m., on June 30, 1978, in Room 2105, Department of Energy, 2000 M Street NW., Washington, D.C.

Public comments, if any, and the hearing record, if any, will be available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., on June 5, 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-15987 Filed 6-8-78; 8:45 am]

[3128-01]

ALLEN & SHUMATE, INC.

Action Taken on Consent Order

Pursuant to 10 CFR section 205.199J, the Economic Regulatory

Administration (ERA) of the Department of Energy (DOE) as successor to the Federal Energy Administration (FEA) hereby gives notice to final action taken on a Consent Order. Under the terms of 10 CFR section 205.197(c), currently section 205.199J (c), no Consent Order involving sums in excess of $500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms. On February 27, 1978, ERA published notice of a Consent Order which was executed between Allen & Shumate, Inc. and FEA (43 FR 8003, February 27, 1978). With that notice, and in accordance with 10 CFR section 205.197 (c), ERA invited interested persons to comment on the Consent Order. A press release in conformity with 10 CFR section 205.197(c) was issued simultaneously.

No public comments were received on the Consent Order. Therefore, ERA has concluded that the Consent Order as executed between ERA and Allen & Shumate, Inc. is an appropriate resolution of the compliance proceedings described in the notice published on February 27, 1978, and hereby gives notice that the Consent Order shall become effective as proposed upon publication of this notice in the FEDERAL REGISTER.

Issued in Washington, D.C., June 2, 1978.

RICHARD B. HERZOG,
Assistant Administrator for Enforcement, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-16007 Filed 6-8-78; 8:45 am]

[3128-01]

LA GLORIA OIL & GAS CO., A WHOLLY OWNED SUBSIDIARY OF TEXAS EASTERN TRANSMISSION CORP.

Proposed Consent Order

I. INTRODUCTION

Pursuant to 10 CFR 205.199J, the Economic Regulatory Administration (ERA) of the Department of Energy, as successor to the Federal Energy Administration (FEA), hereby gives notice of a Consent Order which was executed between La Gloria Oil & Gas Co. (La Gloria), a wholly owned subsidiary of Texas Eastern Transmission Corp., and the ERA on April 18, 1978. Although this Consent Order has been signed and tentatively accepted by the ERA, the ERA may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. THE CONSENT ORDER

La Gloria, located in Houston, Tex., is a firm engaged in the business of refining and selling petroleum products and, therefore subject to FEA and ERA price regulations.

As a result of an audit conducted by FEA of La Gloria's pricing practices for the period August 19, 1973 through December 31, 1975, FEA advised La Gloria that La Gloria had apparently charged certain purchasers of gasoline and diesel fuel prices in excess of those permitted under the Cost of Living Council price rules in 6 CFR §§ 150.355 and 150.358 and the FEA price rule in 10 CFR § 212.82. FEA contended that those overcharges were the result of La Gloria's inclusion of unincurred, contingent costs in its crude oil cost calculations; its failure to include in the calculation of increased product costs or cost recoveries for its refinery operations, the costs incurred or the revenues received in certain "brokerage" sales of covered products; and its overrecovery of previously unrecouped increased product costs, pursuant to the provisions of the "equal application rule" at 10 CFR § 212.83.

In resolution of the issues raised by the audit results, ERA and La Gloria entered into a Consent Order, the significant terms of which are:

(1) La Gloria shall refund the amounts charged to its gasoline and diesel fuel purchasers in excess of maximum lawful prices together with appropriate interest. ERA computed the overcharge (excluding interest) to gasoline purchasers to be $5,544,592 and the overcharge (excluding interest) to diesel fuel purchasers to be $419,908, or a total overcharge of $5,964,500 (excluding interest).

(2) Refunds of overcharges, plus interest, to identifiable customers will be made by check or credit memorandum within 90 days of the effective date of this Consent Order. The amount which may be refunded by credit memorandum is limited to the outstanding balance of each customer on the date the refund is made, unless agreed to by the customer. Refund payments will in no way obligate a customer to purchase additional product.

(3) In order to refund overcharges made in sales of gasoline to unidentifiable customers, La Gloria will reduce its current selling prices for gasoline to each class of purchaser by $0.02 per gallon until the entire amount of the overcharge to unidentifiable customers, plus interest, is refunded.

(4) Refunds to identifiable customers will be accompanied by notice indicating: (a) the month or months to which the refund is applicable ; (b) the amount of per gallon overcharge (plus interest) per month that is being refunded; (c) the fact that such refund is required by ERA pursuant to this Consent Order; and (d) the fact that amounts received constitute a decrease in the increased product costs for purposes of DOE regulations applicable to such recipient.

(5) The provisions of 10 CFR § 205.199J, including the publication of this notice, are applicable to the Consent Order.

III. SUBMISSION OF WRITTEN COMMENTS

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to Mr. Kenneth E. Merica, Acting Director of Enforcement, Region VI, Department of Energy, P.O. Box 35228, Dallas, Tex. 75235. Copies of this Consent Order may be received free of charge by written request to this same address or by calling 214-749-7626.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on La Gloria Consent Order."All comments received by 4:30 c.s.t. on the 30th calendar day following publication of the notice in the FEDERAL REGISTER will be considered by the ERA in evaluating the Consent Order. Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 CFR § 205.9(f).

Issued in Washington, D.C., on the 5th day of June 1978.

RICHARD B. HERZOG,
Assistant Administrator for Enforcement, Economic Regulatory Administration.

[FR Doc. 78-16006 Filed 6-8-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 909-7]

STATE OF CALIFORNIA PRIMARY ENFORCEMENT RESPONSIBILITY

Final Determination

This public notice is issued under § 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq., and § 142.10 of the national interim primary drinking water regulations, published in the FEDERAL REGISTER on January 20, 1976, 41 FR 2916 et seq.

The California Department of Health, Public Health Division, has submitted an application to assume primary enforcement responsibility in accordance with the provisions of this Act.

Upon review of the application, a preliminary determination was made that the California Department of Health has met all conditions of the Safe Drinking Water Act and implementing regulations for the assumption of primary enforcement responsibility for public water systems in the

State of California. This determination was based upon a thorough evaluation of the State's water supply supervision program in relation to the requirements of 40 CFR 142.10, including the adoption and implementation of:

1. State primary drinking water regulations;
2. An inventory of public water systems;
3. A systematic program of sanitary surveys;
4. A State program for certification of laboratories;
5. State laboratory facilities certified by EPA;
6. A plan review program;
7. Adequate statutory or regulatory enforcement authority;
8. Recordkeeping and reporting procedures;
9. A program for issuing variances and exemptions;
10. A plan for providing safe drinking water under emergency circumstances.

A copy of the preliminary determination was published in the FEDERAL REGISTER on February 27, 1978. The FEDERAL REGISTER notice solicited public comment upon the preliminary determination and scheduled two public hearings to consider this action. These hearings were held on April 4 and 6, 1978. I have reviewed the public hearing record and have found that one of the three comments received disagreed with my preliminary determination. This comment did not cite any deficiencies with respect to any of the criteria established by 40 CFR § 142.10 for an acceptable State program; instead it recommended that a primacy determination be withheld until the direction and goals of our water resources policy are more clearly defined by the various water quality management plans. Since the determination must be based upon the criteria established in 40 CFR § 142.10, this adverse comment does not provide a sufficient basis to withhold approval of California's primacy application.

Accordingly, I hereby affirm my determination that the California Department of Health has met all requirements for the assumption of primary enforcement responsibility for public water systems in the State of California. Assumption of primary enforcement responsibility by the State of California shall be effective as of the date of this notice because immediate commencement of public water system supervision by the State of California is judged to be in the public interest and because of the lack of comments during the comment period.

Copies of the public hearing transcripts and all comments received are available for public inspection at the following addresses:

U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105.

U.S. Environmental Protection Agency, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

Dated: June 2, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator, Region IX, Environmental Protection Agency.

[FR Doc. 78-15995 Filed 6-8-78; 8:45 am]

[1505-01]

[PP 6G1705/T149 (FRL-899-3)]

PESTICIDE PROGRAMS

Emission of Temporary Tolerances, O-Ethyl O-[4-(methylthio)phenyl] S-propylphosphorodithioate

Correction

In FR Doc 78-14458 appearing on page 22241, in the issue of Wednesday, May 24, 1978, in the first column, the last line, "June 3, 1978" should appear as "June 3, 1979".

[6560-01]

[FRL 910-1; OPP-30116A]

PESTICIDE PROGRAMS

Approval of Application To Register Pesticide Product Entailing a Changed Use Pattern

On April 21, 1976, notice was given (41 FR 16686) that Bell Laboratories, Inc., 734 East Washington Ave., Madison, Wis. 53703, had filed an application (EPA File Symbol 12455-RA) with the Environmental Protection Agency (EPA) to register the pesticide product ZP Tracking Powder containing 10 percent of the active ingredient zinc phosphide. As stated in the April 21 notice, the product is primarily used as a bait to control field and household rats and mice. The application proposed a change in use pattern to a tracking powder to control household mice and rats.

This application was approved May 16, 1978, and the product has been assigned the EPA Registration No. 12455-16. ZP Tracking Powder is classified for general use.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), will be available for public inspection in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of May 16, 1978. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M Street SW., Washington, D.C. 20460. Such requests should: (1) identify the product by name and registration number, and (2) specify the data or information desired.

Dated: June 5, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-15970 Filed 6-8-78; 8:45 am]

[6560-01]

[FRL 909-5]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL HEALTH ADVISORY COMMITTEE, STUDY GROUP ON PESTICIDE TOLERANCES

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a 3-day meeting of the Study Group on Pesticide Tolerances of the Science Advisory Board's Enviromental Health Advisory Committee will be held on June 27, 28, and 29, 1978 in Room 3906-08, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. The meting will start at 9 a.m. on June 27, 1978.

The principal purpose of the meeting will be to identify and discuss scientific issues relating to toxicology data and hazard evaluation in the context of establishing tolerances for pesticide residues in agricultural crops. The Agenda will also include some follow-up briefings and discussions relating to estimates of exposure.

Pertient background information is as follows. In response to an Agency request to the Science Advisory Board, the Board's Environmental Health Advisory Committee established a Study Group on Pesticide Tolerances and charged it with assisting the Committee in an evaluation of the scientific basis of the Agency's system for establishing tolerances for pesticide residues in agricultural crops. This is the third meeting of the Study Group. At a meeting, on April 5, 1978, the Study Group was briefed on and discussed various aspects of the legislative authority and mandate directly or indirectly relating to the Agency's tolerance setting system. At a subsequent meeting, on May 11 and 12, 1978, the Study Group was briefed on and discussed scientific issues relating to estimates of exposure. Further metings of the Study Group will be scheduled as needed.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper

should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. June 22, 1978. Please ask for Mrs. Ilene Stein or Ms. Barbara Robinson. The telephone number is 703-557-7720.

Dated: June 5, 1978.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board (A-101).

[FR Doc. 78-15968 Filed 6-8-78; 8:45 am]

[6560-01]

[FRL 910-4]

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 May 30, 1978 through June 2, 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 impact statements is forty-five (45) days; the date of submission of comments is July 24, 1978. The thirty (30) day period for each final statement begins 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: June 6, 1978.

WILLIAM D. DICKERSON,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coodinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Kisatchie Unit Plan, Kisatchie National Forest, Natchitoches County, La., June 2: This action involves the 10-year management plan for the Kisatchie unit, Kisatchie National Forest, for approximately the period from 1978 to 1987. This unit contains 99,596 acres of national forest land located in Natchitoches Parish in west-central Louisiana. Timber management activities involve: Harvesting and regenerating 834 acres by clearcutting seedtree, and shelterwood methods; mechanical, hand seedbed, and burning site preparation on 834 acres, and thinnings of 3,844 acres. (USDA-FS-R8(06)DES(adm)-78-06.)(ELR Order No. 80600.)

Final

Ouachita National Forest Plan, in the State of Arkansas and Oklahoma, June 2: The proposed action is to manage, administer, and utilize the timber resource of the Ouachita National Forest from October 1, 1977 through September 30, 1987. The Ouachita National Forest contains 1,575,291 acres of national forest land and is located in Sebastian, Logan, Yell, Perry, Saline, Garland, Hot Spring, Pike, and Scott Counties, Ark., and in Leflore and McCurtain Counties, Okla. Major actions include harvesting 153,000,000 board feet of timber, regenerating about 17,000 acres to pine and hardwood, thinning about 23,000 acres of immature timber stands, and construction of 125 miles of new roads. (USDA-FS-R8-FES-ADM-77-11.) Comments made by: EPA, DOI, USDA, State and local agencies, groups, and individuals. (ELR Order No. 80599.)

Final

Zumbro River Watershed, South Fork, Dodge and Olmstead Counties, May 30: The proposed plan calls for flood control measures to be installed by the Soil Conservation Service (SCS) and the Army Corps of Engineers (COE), in Olmstead and Dodge Counties in southeastern Minnesota. The SCS's responsibility includes the installation of six single purpose flood prevention structures, one multiple-purpose flood prevention-recreation structure, recreation facilities, and accelerated land treatment measures. The COE will administer the installation of channel work, levee construction, bridges, sewers, and utilities. (USDA-SCS-EIS-WS(ADM)-77-1-F-MN) Comments made by: USDA, DOI, HEW, EPA, FERC, USDA, State and local agencies. (ELR Order No. 80580.)

Little Auglaize River Watersheds, several counties in Ohio, May 31: Proposed are projects for watershed protection, flood prevention, and drainage in Mercer, Putnam, and Van Wert Counties, Ohio. Due to project and area similarities, three adjacent watershed work plans (Little Auglaize River, Middle Branch, and Prairie Hoaglin Branch) are jointly covered in this statement. Of the 185.2 miles of channel work planned, 31.5 miles have been completed. Structural measures remaining to be installed consist of 153.7 miles of channel work. Channel construction will disturb 590 acres of woody vegetation, 1,380 acres of cropland, and 26 acres of other land. (USDA-SCS-EIS-WS-(ADM)-76-1-F-OH.) Comments made by: USDA, COE, DOI, DOT, AHP, EPA, State and local agencies, groups, individuals, and businesses. (ELR Order No. 80584.)

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

Boot Key Harbor, Navigation, Marathon, Monroe County, Fla., June 1: The proposed project is designed to provide safe navigation and reduce periodic boat damages in Boot Key Harbor entrance channel by deepening the channel to 12 feet, widening it to 100 feet, and providing a turning basin 200 × 200 feet. The dredged material removed will be disposed of in borrow pits located at each end of the Bahia Honda Bridge and on Ohio Key. The proposed project is located at Boot Key Harbor about 95 miles southwest of Miami near Marathon, Fla. (Jacksonville District.) (ELR Order No. 80591.)

Peabody Coal Co., Pit No. 3 Extension Permit, St. Clair County, Ill., June 2: The proposed action involves the issuance of a permit for the construction of levees, the draining and surface mining of approximately 7,500 feet (40 acres) of a bypassed channel and about 200 acres of land of the Kaskaskia navigation project area. Peabody Coal Co. has been actively mining coal in the vicinity of New Athens on the Kaskaskia River in St., Clair County, Ill. since the early 1960's. Peabody's operation, River King Pit No. 3 has progressed eastward from the vicinity of New Athens with the northern limits of the operation being the original channel of the Kaskaskia River. (St. Louis District.) (ELR Order No. 80602.)

Draft

Platte River and tributaries, local flood protection, Nebraska, May 31: The proposed action is a plan for local flood protection at Columbus, Grand Island, and North Platte, Nebr. on the Platte River and tributaries. The Columbus project would consist of the construction of training levees and an excavated floodway with a low-flow channel to provide flood protection. The Grand Island project would consist of a channel and levee diversion of Wood River to the Platte River west of U.S. Highway 281. The North Platte project consists of a trial levee beginning about 4 miles northwest of the city near the North Platte River channel. (Omaha district) (ELR Order No. 80586.)

Draft supplement

Grays Harbor and Chehalis River, terminal No. 2, Grays Harbor County, Wash., June 1: This EIS supplements a final EIS filed with CEQ. The proposed action involves the construction of a new pier, dredging of a berth in front of this pier, and filling of tide lands between the new pier and adjacent to slip 2 at the port of Grays Harbor in Aberdeen, Wash. (Seattle District) (ELR Order No. 80590.)

Cabin Creek Basin, demonstration reclamation, Kanawaha and Fayette Counties, W. Va., May 30: This EIS supplements a draft EIS filed in June 1973. The recommended plan consist of a pilot demonstration reclamation project including erosion and sediment control, flood damage prevention, water quality control, a water supply system, recreational development, wildlife enhancement, intensification of complementary on-going programs and program management and analysis. The proposed action is located in Kanawha and Fayette Counties, W. Va. (Huntington district) (ELR Order No. 80582.)

DEPARTMENT OF COMMERCE

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

ECONOMIC DEVELOPMENT ADMINISTRATIVE

The review period for the following draft supplement EIS has been shortened from 45 days to 30 days.

Draft Supplement

1980 Olympic Winter Games (S-1), Essex County, N.Y., June 2: This EIS supplements a final EIS filed in January of 1977. The purposes of this draft supplemental EIS are to: (1) Disclose changes in the proposed action and its impacts which have come to the attention of the EDA since January 1977, and (2) to obtain comments to assist those making Olympic connected decisions by providing an updated understanding of environmental consequences of their acts. (ELR Order No. 80595.)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Coastal Zone Management Program, Maryland, several counties, June 2: It is proposed that the assistant administrator approve the coastal zone management program of the State of Maryland, approval would permit implementation grants to be awarded to the State, and require that Federal actions be consistent with the program. The State will condition, restrict, or prohibit land and water uses in some parts of Maryland's coast while encouraging development in other parts. Maryland coastal area can be divided into two distinct regions; the Atlantic Coast area which has a shoreline of 31 miles and the Chesapeake Bay area which is characterized by over 4,000 miles of greatly indented shoreline. (ELR Order No. 80594.)

Final

Pacific billfishes and sharks—PMP, June 2: Proposed is a preliminary management plan for Pacific billfishes and sharks to be in effect until superseded by an approved regional fisheries management council fishery management plan. The proposed action would specify restrictions on the take, possession, and retention of billfishes by foreign fishers fishing in the U.S. fishery conservation zone seaward of the mainland West Coast, Hawaii, Guam, and American Samoa. Foreign fishers would be required to obtain from the U.S. a permit for fishing in a manner which could reasonably be expected to result in a taking of billfishes and/or sharks. Comments made by: DOI, COE, STAT, and State agencies. (ELR Order No. 80592.)

Squid Fishery of the Northwest Atlantic, FMP, June 2: Proposed is a fishery management plan for the squid fishery of the Northwestern Atlantic Ocean prepared by the mid-Atlantic fishery management council in consultation with the New England and South Atlantic fishery management councils in accordance with Pub. L. 94-265. The objectives of the plan are to: Prevent destructive exploitation of squid species; minimize capture of non-target species; and minimize user conflict. It is recommended that the 1978 optimum yield for Illex be set at 30,000 metric tons and the 1978 optimum yield for Loligo be set at 44,000 metric tons. Comments made by: STAT, EPA, DOT, DOC, and State agencies. (ELR Order No. 80593.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Doris Lee, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, 415-556-3458.

Draft supplement

Greater Globe-Miami, wastewater treatment project, May 30: This draft supplement to the EIS explores in greater depth certain unresolved issues raised in the April 1976 EIS. Since that time progress has been made on facilities planning for the town of Miami plant, but some issues regarding the city of Globe plant remain unresolved. These issues include the effects of percolating effluent on groundwater; the mitigation measures to be employed to minimize disposal impacts; the implications on the Globe area of updating wastewater flow estimates and cost estimates; and site-specific impacts of expanding the treatment plant, including the need for flood protection. (ELR order No. 80581.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Draft

Watts Bar nuclear plant, units 1 and 2, operating Rhea County, Tenn., June 2: The proposed action is the issuance of operating licenses to the Tennessee Valley Authority (TVA) for the startup and operation of the Watts nuclear plant units 1 and 2 located on the west shore of Chickamauga Reservoir in Rhea County, 8 miles southeast of Spring City, Tenn. Each unit will employ a pressurized water reactor to produce up to 341 MWT for a total of 6,822 thermal megawatts. This head will be used to produce steam to drive steam turbines providing 2,340 MW net of electrical power capacity. The units will be cooled by cooling towers drawing makeup water from Chickamauga Reservoir. (NUREG-0352). (ELR order No. 80598.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Richland Airport, land acquisition and improvement, Richland County, Wis., June 2: The proposed action involves the airport development program for the Richland Airport. The city of Richland Center has submitted a request for Federal financial assistance under the airport development aid program, as authorized by the Airport and Airway Development Act amendments of 1976, for a project to expand the existing general aviation airport. The purpose of the proposed project is to provide a facility that will more safely accommodate aircraft using the existing airstrip facility to better meet the aeronautical demands of today and the future. (ELR Order No. 80601.)

Final

New General Aviation Airport, Baton Rouge, East Baton Rouge County, La., May 30: Proposed is the request for Federal funds under the Airport Development Aid program for the development of a new general aviation airport to replace the recently closed downtown airport, Baton Rouge, La. The proposed development would include: Acquisition of 530 acres of land; construction of a new runway, taxiway, and parking apron; and construction of access roads, vehicle parking area, hangars and office space. Comments made by: EPA, DOI, USDA, HEW, COE, DOT, State and local agencies. (ELR Order No. 80579.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Pine Bluff Arkansas Railroad demonstration project, Jefferson County, Ark., May 31: This action involves a railroad demonstration project undertaken in Pine Bluff, which is located in Jefferson County in southeast Arkansas, 45 miles southeast of Little Rock. The purpose is to eliminate existing railroad-community conflicts and to improve the transportation network of the area through rail system improvements. The proposal action would provide for relocation of the railroad main lines of the Missouri Pacific and the South Western Railways to the north and south of the city; or for consolidation of both main lines into a common right-of-way through the city. Six relocation alternates and three consolidation alternates were developed. (FHWA-AR-EIS-78-01-D.) (ERL Order No. 80587.)

Trunk Highway 65, Cambridge Bypass, Isanti County, Minn., May 31: The proposed action involves the improvement of Trunk Highway 65, which is located in east central Minnesota in Isanti County, approximately 40 miles north of Minneapolis-St. Paul. The project involves the construction of TH65 on new location east of the city of Cambridge (Cambridge bypass). The proposed bypass extends from 3.1 miles south to 3.3 miles north of the present junction of TH65 and TH95 in Cambridge. The proposed bypass, approximately 6.7 miles in length will be a four-lane divided highway, freeway design with fully controlled access. The present TH65 is generally a two-lane facility with uncontrolled access. (FHWA-MN-EIS-78-01-D.) (ELR Order No. 80585.)

WA-5, Trosper Road to Martin Way interchange, Thurston County, Wash., May 30: The proposed action involves improvement to WA-5 which is a major north-south route from the Mexican border to the Canadian border on the west coast. It connects the cities of Portland, Olympia, Tacoma, Seattle, and Vancouver, in the Pacific northwest. The proposed highway improvement consists of improving a 7.5 mile section of WA-5 from Trosper Road interchange to Martin Way interchange. The improvements involve widening the existing alignment from four to six lanes from Capitol Lake interchange to Martin Way interchange and construction of auxiliary lanes for operational improvements in some locations. (FHWA-WA-EIS-78-01-D.) (ELR Order No. 80578.)

Final

SR 54, Owensboro, Daviess County, Ky. May 31: Proposed is the widening of a 1.1 mile segment of State route 54-Leitchfield Road to four lanes. The project runs from the Owensboro beltline (State route 212) to 12th Street east of the existing alignment. The proposed improvement consists of providing a four-lane facility in a new location, east of the existing roadway. (FHWA-KY-EIS-74-08-F.) Comments made by: TVA, HUD, DOC, HEW, AHP, DOI, State, and local agencies. (ELR Order No. 80588.)

U.S. 30 Improvement, Hall County, Nebr. June 1: Proposed is the improvement of existing urban highway U.S. 30 from the west end of the central business district, Eddy Street, over the Union Pacific Railroad tracks to Webb Road. The selected improvement consists of a four-lane divided roadway

on 2d Street with a painted median east of the railroad overpass, a new four-lane divided bridge and a four-lane divided facility with a 16-foot wide median from the viaduct at Webb Road. (Region 7) (FHWA-NEB-EIS-76-01-F.) Comments made by: HUD, DOI, EPA, DOT, AHP, State, and local agencies. (ELR Order No. 80589.)

U.S. 60, Diamond to Hugheston, Kanawha County, W. Va. June 2: The statement discusses the proposed reconstruction of U.S. 60 from a 2-lane to a 4-lane highway from Diamond to Hugheston. The proposed facility is 9 miles long and parallels the Kanawha River in Kanawha County. There will be minor pollution effects resulting from construction. Also acquisition of additional rights-of-way will require the displacement of varying number of families and businesses depending on which of three alternatives is chosen. (FHWA-WV-EIS-74-07-F.) Comments made by: FPC, DOT, COE, AHP, DOI, and EPA. (ELR Order No. 80596.)

Draft Supplement

Shakwak Highway Improvement (S-1), May 30: This EIS supplements an EIS filed in December 1977. The proposed action involves the improvement of the Shakwak highway. The Shakwak project follows the bank of the Klehini River through rainy hollow for approximately 15 kilometers north from the Alaska/British Columbia border and then ascends sharply upward for five kilometers to Three Guardsmen Pass. From Three Guardsmen Pass to Dezadeash Lake, 120 kilometers the roadway traverses a series of Subal Pine valleys to the Shahwak valley which extends northward approximately 370 kilometers to the Yukon territory/Alaska border. (FHWA-BC/YT-EIS-77-01-D.) (ELR Order No. 80583.)

VETERANS ADMINISTRATION

Contact: Mr. Lyman T. Miller, Assistant Director for Construction and Valuation, Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, 202-389-2691.

Final

VA Cemetery at Riverside County, Calif., June 2: Proposed is the development of a new cemetary for the interment of veterans at Riverside, Calif. The 750 acre site will include approximately 500 burial acres with a capacity of 437,000 burials, plus additional space for Columbariums. Initial construction will supply burial sites for 40,000 interments, and administration building, maintenance center, and a water impoundment area which will serve a dual function not only as a focal point of landscape, but as storage for irrigation water. Adverse impacts include additional traffic generated by funeral processions and visitors to the site. Comments made by: USDA, USAF, EPA, HUD, DOI, DOT, and State agency. (ELR Order No. 80597.)

[FR Doc. 78-16065 Filed 6-8-78; 8:45 am]

[6560-01]

[FRL 910-2; OPP-33000/545 & 546]

PESTICIDE REGISTRATION DATA TO BE CONSIDERED IN SUPPORT OF APPLICATIONS

Receipt of Application

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 3182) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" (41 FR 3339). This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement which were effected by the enactment of the amendments to FIFRA on November 28, 1975 (Pub. L. 94-140), and the regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 (40 CFR Part 162).

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street SW., Washington, D.C. 20460. In the case of applications subject to the section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, are being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data and wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, or (d) wishes to assert confidential status under Section 10 for his data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claimant by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Wshington, D.C. 20460. Every such claim must include, at a minimum, the information listed in the Interm Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, and 13—202/755-9315
PM 21 and 22—202/426-2454
PM 24—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, and 17—202/426-9425
PM 23—202/755-1397
PM 25—202/426-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before August 8, 1978. EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made on or before July 10, 1978. Registration will be delayed pending resolution of section 10 claims.

Dated: June 2, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATION RECEIVED 33000/545

EPA Reg. No. 52-53. West Chemical Products, Inc., 42-16 West St., Long Island City, NY 11101. WESCOL. Active Ingredients: Coal Tar Neutral Oils 40.0%; Soap 20.0%; Coal tar phenols 17.0%; o-benzyl-p-chlorophenol 7.2%; Isopropanol 2.4%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Formulation change. PM32 This Label supersedes the label which appeared in the FEDERAL REGISTER on April 18, 1978 on page 16401.

EPA File Symbol 52-ELR. West Chemical Products, Inc. SUPER PHENOLA. Active Ingredients: Sodium o-Phenylphenate 8.50%; Isopropanol 2.50%; Sodium o-benzyl p-Chlorophenate 2.20%; Sodium Tertiaryamylphenate 1.40%; Sodium dodecylbenzenesulfonate 1.05%; Sodium lauryl sulfate 1.00%; Tetrasodium ethylenediaminetetraacetate 0.04%; Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 193-RA. Wonder Chemical Corp., 249 Canal Rd., Fairless Hills, PA 19030. WONDER CHLOR. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 264-204. Amchem Products, Inc., Brookside Ave., Ambler, PA 19002. BROMINAL. Active Ingredients: Octanoic acid ester of bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) 33.1%. Method of

Support: Application proceeds under 2(b) of interim policy. Republished: Adding tank mix with Avenge. PM25

EPA File Symbol 299-ENU. C. J. Martin Co., 606 W. Main St., Nacogdoches, TX 75961. MARTIN'S DIPEL WP. Active Ingredients: Bacillus thuringiensis, Berliner, 4,320 International Units of potency per milligram (1.96 billion International Units per pound). Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 323-LT. J. I. Holcomb Co., 4415 Euclid Ave., Cleveland, OH 44103. HOLCOMB DUAL ACTION CRAWLING AND FLYING INSECT KILLER. Active Ingredients: +(5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 0.250%; Related compounds 0.034%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA Reg. No. 352-317. E. I. du Pont de Nemours & Co. Inc., Legal Dept., D7045, Wilmington, DE 19898. SINBAR. Active Ingredients: Terbacil [3-tert-butyl-5-chloro-6-methyluracil] 80%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA File Symbol 359-ATL. Rhodia Inc. Agricultural Division, P.O. Box 125, Monmouth Junction, NJ 08852. RONSTAR HERBICIDE. Active Ingredient: Oxadiazon [2-tert-butyl-4-(2,4-dichloro-5-isopropoxyphenyl) delta 2-1,3,4-oxadiazolin-5-one] 24.4%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay. PM24

EPA Reg. No 464-501. The Dow Chemical Co., P.O. Box 1706, Midland, MI 48640. LORSBAN 25-SL WETTABLE POWDER INSECTICIDE. Active Ingredients: Chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate] 25%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM12

EPA File Symbol 475-ENT. Boyle-Midway Inc., 685 Third Ave., New York, NY 10017. DIAPER PURE PRESOAK. Active Ingredients: N-Alkyl (60% C14, 30%, C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chorides 0.90%, N-Alkyl (68% C12, 32% C14) dimethyl Ethelbenzl, Ammonium Chlorides 0.90%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: change in method of support. PM31

EPA File Symbol 538-RLG. ProTurf Division, O. M. Scott & Sons, Marysville, OH 43040. SCOTTS PROTURF HD INSECT CONTROL+FERTILIZER TURF INSECTICIDE. Active Ingredients: Chlorpyrifos [O, O-diethyl-O- (3,5,6-trichloro-2-pyridyl phosphorothioate .0.85%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 538-RLU. O. M. Scott & Sons. SUMMER INSECT CONTROL PLUS FERTILIZER FOR LAWNS. Active Ingredients: Chlorpyrifos [O,O-diethyl-O-(3,5,6-trichloro-2-pyridyl phosphorothioate] 0.92%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 707-RGU. Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105. KATHON 886 MW 1.5%. Active Ingredients: 5-Chloro-2-methyl-4-isothiazolin-3-one 1.15%; 2-Methyl-4-isothiazolin-3-one 0.35%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 707-RUG. Rohm & Haas Co. KATHON 893T. Active Ingredients: 2-n-Octyl-3-isothiazolin-3-one 85.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 769-UAN. Woolfolk Chemical Works, Inc., Fort Valley, GA 31030. SECURITY DIPEL SPRAY BIOLOGICAL INSECTICIDE. Active Ingredients: Bacillus thuringiensis, Berliner, 4,320 International Units of Potency per mg (equivalent to 1.96 billion International units of potency per pound). Method of Support: Application proceeds under 2(b) of interim policy. PM17

APPLICATION RECEIVED 33000/546

EPA File Symbol 1658-EU. Hillyard Chemical Co., P.O. Box 909, St. Joseph, MO 64502. PHENE-O-CLEAN. Active Ingredients: Ortho-Phenylphenol 2.75%; Orthobenzyl-para-chlorophenol 1.46%; Para-tertiary-amylphenol 0.99%; Isopropyl alcohol 0.50%; Sodium xylene sulfonate 0.10%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA File Symbol 2125-TL. Science Products Co. Inc., 5801 N. Tripp Ave., Chicago, IL 60646. ●BLOSSOM SET. Active Ingredients: Beta-naphthoxyacetic acid 0.0042%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Formulation change. PM25

EPA File Symbol 2724-ETA. Zoecon Industries, Inc., 12200 Denton Drive, Dallas, TX 75234. ZOECON MUSCAMONE FLY ATTRACTANT. Active Ingredients: (Z) -9-tricosene 60.0%; Method of Support: Application proceeds under 2(b) of interim policy. PM13

EPA Reg. No. 2831-50. Napasco International Inc., P.O. Box 1219, Thibodaux, LA 70301. MICRO-X LEMON DISINFECTANT. Active Ingredients: o-Phenylphenol 00.17%; p-tertiary-Amylphenol 00.04%; Isopropanol 52.92%; Essential oils 00.50%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Formulation change. PM32

EPA Reg. No. 2831-51. Napasco International Inc. MICRO-X ORANGE DISINFECTANT. Active Ingredients: o-Phenylphenol 00.17%; p-tertiary-Amylphenol 00.04%; Isopropanol 52.92%; Essential oils 00.35%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Formulation change. PM32

EPA Reg. No. 3125-136. Chemagro Agricultural Division, Mobay Chemical Corp., Kansas City, MO 64120. BAYLUSCIDE 70% WETTABLE POWDER. Active Ingredients: 5-Chloro-N-(2-chloro-4-nitrophenyl)-2-hydroxybenzamide compound with 2-aminoethanol (1:1) 70%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Amendment. PM11

EPA Reg. No. 3125-277. Chemagro Agricultural Division. SENCOR 50% WETTABLE POWDER HERBICIDE. Active Ingredients: 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio),1,2,4-triazin-5(4H)-one 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA Reg. No. 3125-277. Chemagro Agricultural Division. SENCOR 50% WETTABLE POWDER HERBICIDE. Active Ingredients: 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA Reg. No. 3125-277. Chemagro Agricultural Division. SENCOR 50% WETTABLE POWDER HERBICIDE. Active Ingredients: 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one 50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA Reg. No. 3125-314. Chemagro Agricultural Division. SENCOR 4 FLOWABLE HERBICIDE. Active Ingredients: 4-Amino-6- (1,1-dimethylethyl) -3-(methylthio)-1,2,4-triazin-5(4H)-one 41%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA Reg. No. 3125-314. Chemagro Agricultural Division. SENCOR 4 FLOWABLE HERBICIDE. Active Ingredients: 4-Amino-6- (1,1-dimethylethyl) -3-(methylthio)-1,2,4-triazin-5(4H)-one 41%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA File Symbol 3554-G. The A. I. Root Co., Medina, OH 44256. BENZALDEHYDE. Active Ingredients: Benzaldehyde 100%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 3703-E. Intercem, 5703 E. Melville Way, Anaheim, CA 92806. COOLING TOWER ALGAECIDE. Active Ingredients: Dioctyl dimethyl ammonium chloride 50%; ethyl alcohol 10%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: New offer to pay. PM31

EPA Reg. No. 3770-277. Economy Products Co., Inc., Shenandoah, IA 51601. 4% MALATHION POWER INSECTICIDE. Active Ingredients: Malathion 4%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM16

EPA Reg. No. 4254-3. Cardinal Products Corp., P.O. Box 501, Miami, FL 33138. MILDEW STOP SPRAY. Active Ingredients: 2,2'-Methylenebis (4-chlorophenol) 0.9%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Formula change. PM32

EPA File Symbol 4822-RAN. S. C. Johnson & Son, Inc., 1525 Howe Street, Racine, WI 53403. OFF! FORMULA III LIQUID SPRAY INSECT REPELLENT. Active Ingredients: N,N-diethyl-meta-toluamide 17.10%; other isomers 0.90%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 4828-RNO. Abco, Inc., P.O. Box J, Irwin, PA 15642. SQUIRE. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 4823-RRN. Abco, Inc. PIONEER. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 4828-RRR. Abco, Inc. ASTRO. Active Ingredients: poly[oxyethylene(dimethyliminio) ethylene-(dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 4828-RRE. Abco, Inc. RESTORE. Active Ingredients: Poly[oxyethylene (dimethyliminio) ethyl-

ene-dimethyliminio) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 6720-59. Southern Mill Creek Products Co., Inc., P.O. Box 1096, Tampa, FL 33601. DURSBAN 2E INSECTICIDE. Active Ingredients: Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate) 23.5%; Aromatic petroleum derivative solvent 14.9%; Xylene 54.9%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM12

EPA Reg. No. 6720-148. Southern Mill Creek Products Co., Inc. DURSBAN 1E INSECTICIDE. Active Ingredients: Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate 12.9%; Aromatic petroleum derivative solvent 78.9%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM12

EPA Reg. No.7001-144. Occidental Chemical Co., P.O. Box 198, Lathrop, CA 95330. 50% MALATHION INSECT SPRAY. Active Ingredients: Malathion 50.0%. Xylene 35.4%. Method of Support: Application proceeds under 2(b) interim policy. Republished: Added uses. PM16

EPA File Symbol 9619-0. Synthetic Labbs, Inc., P.O. Box 131, Dracut, MA 01826. GC SUPER 50. Active ingredients: Didecyl dimethyl ammonium chloride 50%; Isopropyl alcohol 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 9771-1. W-B Chemical Co., Inc., 15 So. MacQuesten Pkwy, Mount Vernon, NY 10550. W-B DISINFECTANT SANITIZER AND DEODORANT. Active Ingredients: n-Alkyl (60% C14, 5% C12, 5% C18) dimethyl benzyl ammonium chloride 0.50%; n-Alkyl (50% C12, 30% C14, 17% C16, 3% C18) dimethyl ethyl benzyl ammonium chloride 0.50%. Method of Support: Application proceeds under 2(b) of interim policy. Republished; Amendment. PM31

EPA File Symbol 9800-RO. Stewart-Hall, Chemical Corp., Mount Vernon, NY 10553. RE-FRESH HUMIDIFIER TREATMENT. Active Ingredients: n-Alkyl (98% C12, 2% C14) dimethyl l-naphthylmethyl ammonium chloride monohydrate 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

[FR Doc. 78-16156 Filed 6-8-78; 8:45 am]

[6560-01]

[FRL 910-5]

RESOURCE CONSERVATION COMMITTEE

Change in Meeting Time

The Resource Conservation Committee staff is holding monthly informal discussion forums so that interested parties may participate in the Committee's study of a wide range of proposals aimed at improving the use of materials in the United States. These informal discussions are in addition to the formal public meetings which have been and will be held by the Committee.

These meetings take place monthly at the Environmental Protection Agency, 401 M Street SW., Washington, D.C. The third open forum will be held Tuesday, June 13, 1978, from 11 a.m. to 1 p.m. in room 3908. For further information and to request that an item for discussion be placed on the agenda, contact Susan Mann, Public Participation Liaison at 202-755-9145.

The objective of these sessions is to provide an opportunity for the exchange of ideas relating to resource conservation between interested parties. As such, the format will be informal and provide for discussion rather than formal statements. No official record will be maintained. Participants are encouraged to propose innovative policy options for discussion.

The Resource Conservation Committee is the interagency committee set up under Section 8002(j) of the Resource Conservation and Recovery Act (Pub. L. 94-580). The Committee is chaired by EPA Administrator Douglas Costle and includes the Secretaries of Commerce, Labor, Interior, Energy, and Treasury; Chairman of Council on Environmental Quality; Director of Office of Management and Budget; and Chairman of Council of Economic Advisers. The Committee will make recommendations to the President and the Congress later this year on the desirability and possible design of policy options including solid waste disposal charges, resource conservation subsidies, direct product regulation, local solid waste user fees, and other policy proposals. They would like to include the public in the decision-making process and are soliciting views on these potential legislative initiatives.

Dated: June 6, 1978.

BARBARA BLUM,
Deputy Administrator, U.S. Environmental Protection Agency.

[FR Doc. 78-16066 Filed 6-8-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

AM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: June 1, 1978.

Released: June 5, 1978.

Notice is hereby given, pursuant to Section 1.571(c) of the Commission's Rules, that on July 31, 1978, the AM applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on July 28, 1978, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. by the close of business of July 28, 1978. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to Section 1.571(c) of the Commission's Rules.

The attention of any party in interest desiring to file pleadings concerning any pending AM applications, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

BML-2677 (WESR), Olney-Onancock, Ba., The Accomack Northampton Broadcasting Co., Inc. Has: 1330 kHz, 5kW, Day (Tasley, Va.). Req: 1330kHz, 5 kW, Day (Onley-Onancock, Va.).

BMP-14,224 (WPOM), Rivera Beach, Fla., Rivera Broadcasting Corp., Has: 1600 kHz, 1kW, DA-1, U. Req: 1600 kHz, 1kW, 5 kW-LS, DA-2, U.

BP-20,388 (KWUN), Concord, Calif., Adler Communications Co., Inc. Has: 1480 kHz, 500 W, DA-Day. Req: 1480 kHz, 500 W, DA-1, U.

BP-20,392 (KEES), Gladewater, Tex., Orman L. Kimbrough Has: 1430 kHz, 1kW, Day. Req: 1430 kHz, 1kW, 5 kW-LS, DA-N, U.

BP-20,405 (WGTO), Cypress Gardens, Fla., Hubbard Broadcasting, Inc. Has: 540kHz, 250 W, 50 kW-LS, DA-2, S.H. Req: 540kHz, 1kW, 50 kW, 50 kW-LS, DA-2, U.

BP-20,412 (KXVI), McKinney-Plano, Tex., AHB Broadcasting Corp. Has: 1600 kHz, 5kW, DA, Day. Req: 1600 kHz, 1kW, 5 kW-LS, DA-2, U.

BP-20,413 (KARI), Blaine, Wash., The Birch Bay Broadcasting Co., Inc. Has: 550 kHz, 1 kW, 5 kW-LS, DA-2, U. Req: 550 kHz, 2.5 kW, 5 kW-LS, DA-2, U.

BP-20,415 (KLIQ), Lake Oswego, Oreg., Cascade Broadcasting Corp. Has: 1290 kHz, 5 kW, Day (Portland, Oreg.). Req: 1290 kHz, 5 kW, DA-1, U (Lake Oswego, Oreg.).

BP-20,419 (WASA), Havre de Grace, Md., The Chesapeake Broadcasting Corp. Has: 1330 kHz, 5 kW, Day. Req: 1330 kHz, 0.5 kW, 5 kW-LS, DA-N, U.

BP-20,421 (WYYZ), Jasper, Ga., Pickens County Broadcasting Co. Has: 1580 kHz, 250 W, Day. Req: 1490 kHz, 250 W, 1 KW-LS, U.

BP-20423 (WKHJ), Holly Hill, S.C., Radio Holly Hill, Inc. Has: 1440 kHz, 1 kW, Day. Req: 1440 kHz, 1 kW, DA-N, U.

BP-20,429 (WBEV), Beaver Dam, Wis., Beaver Dam Radio, Inc. Has: 1430 kHz, 1 kW, Day. Req: 1430 kHz, 1 kW, DA-N, U.

BP-20,430 (WRMN), Elgin, Ill., Elgin Broadcasting Co., Inc. Has: 1410 kHz, 1 kW, Day. Req: 1410 kHz, 0.5 kW, 1 kW-LS, DA-N, U.

BP-20,433 (KITI), Centralia-Chehalis, Wash., KITN-KITI Corp. Has: 1420 kHz, 1 kW, Day. Req: 1420 kHz, 1 kW, DA-N, U.
BP-20,434 (WLNA), Peeskill, N.Y., Highland Broadcasting Corp. Has: 1420 kHz, 1kW, Day. Req: 1420 kHz, 1kW, 5 kW-LS, DA-2, U.
BP-20,436 (WGUY), Brewer, Maine, Bangor Broadcasting Corp. Has: 1250 kHz, 5kW, Day (Bangor, Maine). Req: 1250 kHz, 5 kW, DA-N, U (Brewer, Maine).
BP-20,439 (KVNI), Coeur d'Alene, Idaho, North Idaho Broadcasting Co. Has: 1240 kHz, 250 W, 1 kW-LS, U. Req: 1080 kHz, 1kW, 10kW-LS, DA-N, U.
BP-20,450 (new), Troy, Ohio, Cloverleaf Broadcasting Corp. Req: 1510 kHz, 250 W, DA, Day.
BP-20,451 (WTNJ), Ewing, N.J., Progressive Communications, Inc. Has: 1300 kHz, 5 kW, DA, Day (Trenton, N.J.). Req: 1300 kHz, 2.5 kW, 5 kW-LS, DA-2, U (Ewing, N.J.).
BP-20,455 (new), Volga, S.Dak., Dakota-North Plains Corp. Req: 910 kHz, 1 kW, 500 W-LS, DA-2, U.
BP-20,462 (WEKG), Jackson, Ky., The Intermountain Broadcasting Co., Inc. Has: 810 kHz, 1 kW, Day. Req: 810 kHz, 5kW, Day.
BP-20,466 (WLTH), Gary, Ind., Northwestern Indiana Broadcasting Corp. Has: 1370 kHz, 1 kW, Day. Req: 1370 kHz, 500 W, 1 kW-LS, DA-N, U.
BP-20,467 (WHOT), Campbell, Ohio, WHOT, Inc. Has: 1330 kHz, 1 kW, 500 W-LS, DA-2, U. Req: 1330 kHz, 5 kW, 500 W-LS, DA-2, U.
BP-20,468 (WBLG), Lexington, Ky., Village Communications, Inc. Has: 1300 kHz, 1 kW, DA-N, U. Req: 1300 kHz, 1 kW, 2.5 kW-LS, DA-N, U.
BP-20,470 (WDMJ), Marquette, Mich., WDMJ, Inc. Has: 1320 kHz, 1 kW, DA-N, U. Req: 1320 kHz, 1 kW, 5 kW-LS, DA-N, U.
BP-20,471 (WNPV), Lansdale, Pa., Equitable Publishing Co. Has: 1440 kHz, 500 W, DA, Day. Req: 1440 kHz, 500 W, DA-2, U.
BP-20,474 (KTPA), Prescott, Ark., Newport Broadcasting Co. Has: 1370 kHz, 500 W, Day. Req: 1370 kHz, 1 kW, Day.
BP-20,475 (NEW), Tuba City, Ariz., The Navajo Bible School and Mission. Req: 1050 kHz, 5 kW, Day.
BP-20,486 (KSPR), Springdale, Ark., Johnson Comminications, Inc. Has: 1590 kHz, 500 W, Day. Req: 1590 kHz, 1 kW, Day.
BP-20,487 (WWCH), Clarion, Pa., Clarion County Broadcasting Corp. Has: 1300 kHz, 500 W, Day. Req: 1300 kHz, 1 kW, Day.
BP-20,488 (WRDD), Bay City, Mich., Tri-Media, Inc. Has: 1440 kHz, 500 W, 1 kW-LS, U. Req: 1440 kHz, 2.5 kW, 5 kW-LS, DA-2, U.
BP-20,489 (WECP), Carthage, Miss., Meredith Colon Johnston. Has: 1080 kHz, 250 W, Day. Req: 1080 kHz, 5 kW, DA, Day.
BP-20,490 (WGSM), Huntington, N.Y., WGSM Radio, Inc. Has: 740 kHz, 5 kW, DA, Day. Req: 740 kHz, 25 kW, DA, Day.
BP-20,492 (WCHN), Norwich, N.Y., Radio Norwich, Inc. has: 970 kHz, 500 W, Day. Req: 970 kHz, 1 kW, Day.
BP-20,493 (WMBT), Shenandoah, Pa., Schuylkill Trans-Audio Corp., Inc. Has: 1530 kHz, 1 kW, Day. Req: 1530 kHz, 2.5 kW, Day.
BP-20,494 (WJSB), Crestview, Fla., Crestview Broadcasting Co., Inc. Has: 1050 kHz, 1 kW, Day. Req: 1050 kHz, 5 kW, Day.
BP-20,496 (KCRA), Sacramento, Calif., Kelly Broadcasting Co. Has: 1320 kHz, 1 kW, 5 kW-LS, DA-2, U. Req: 1320 kHz, 5 kW, DA-2, U.
BP-20,498 (WSBR), Boca Raton, Fla., Burbach Radio, Inc. Has: 740 kHz, 1 kW, DA, Day. Req: 740 kHz, 500 W, 1 kW-LS, DA-2, U.
BP-20,499 (KGDN), Edmonds, Wash., King's Garden, Inc. Has: 630 kHz, 5 kW, Day. Req: 630 kHz, 1 kW, 5 kW-LS, DA-N, U.
BP-20,501 (WIMS), Michigan City, Ind., Northern Indiana Broadcasters, Inc. Has: 1420 kHz, 500 W, 5 kW-LS, DA-2, U. Req: 1420 kHz, 5 kW, DA-2, U.
BP-20,502 (KLMS), Lincoln, Nebr., Telegraph-Herald, Inc. Has: 1480 kHz, 1 kW, DA-2, U. Req: 1480 kHz, 1 kW, 2.5 kW-LS, DA-2, U.
BP-20,503 (WIZR), Johnstown, N.Y., Street Broadcasting Corp. Has: 930 kHz, 1 kW, Day. Req: 930 kHz, 1 kW, DA-N, U.
BP-20,506 (WRIP), Rossville, Ga., Jay Sadow. Has: 980 kHz, 500 W. DA, Day. Req: 980 kHz, 500 W, DA-2, U.
BP-20,508 (WLEA), Hornell, N.Y., Patricus Enterprises, Inc. Has: 1480 kHz, 1 kW, Day. Req: 1480 kHz, 2.5 kW, Day.
BP-20,509 (KNWC), Sioux Falls, S. Dak., Northwestern College. Has: 1270 kHz, 1 kW, DA-N, U. Req: 1270 kHz, 2.5 kW, DA-2, U.
BP-20,510 (WRYZ), Jupiter, Fla., Lighthouse Broadcasting Co., Inc. Has: 1000 kHz, 1 kW, DA, Day. Req: 1000 kHz, 250 W, 1 kW-LS, DA-2, U.
BP-20,511 (KKKQ), Tempe, Ariz., Tri-State Broadcasting Co. Inc. Has: 1060 kHz, 500 W, DA-1, U. Req: 1060 kHz, 500 W, 5 kW-LS, DA-N, U.
BP-20,514 (KANN), Ogden, Utah, Southern Nevada Communications Corp. Has: 1090 kHz, 1 kW, Day. Req: 1090 kHz, 5 kW, Day.
BP-20,516 (KTIS), Minneapolis, Minn., Northwestern College. Has: 900 kHz, 1 kW, Day. Req: 900 kHz, 2.5 kW, Day.
BP-20,517 (KEHG), Fosston, Minn., KEHG, Inc. Has: 1480 kHz, 5 kW, Day. Req: 1480 kHz, 2.5 kW, 5 kW-LS, DA-N, U.
BP-20,518 (KVLH), Pauls Valley, Okla., Garvin County Broadcasting, Inc. Has: 1470 kHz, 250 W, Day. Req: 1470 kHz, 1 kW, DA, Day.
BP-20,519 (WQCK), Warner Robins, Ga., WRBN, Inc. Has: 1600 kHz, 500 W, 1 kW-LS, DA-N, U. Req: 1600 kHz, 500 W, 2.5 kW-LS, DA-N, U.
BP-20,521 (KPRM), Park Rapids, Minn., De La Hunt Broadcasting Corp. Has: 1240 kHz, 250 W, 1 kW-LS, U. Req: 1270 kHz, 5 kW, Day.
BP-20,523 (WNNO), Wisconsin Dells, Wis., Taylor Electric Co. Has: 990 kHz, 500 W, Day. Req: 900 kHz, 1 kW, Day.
BP-20,525 (KGAA), Kirkland, Wash., Glo-Lee Broadcasting Corp. Has: 1460 kHz, 5 kW, DA, Day. Req: 1460 kHz, 2.5 kW, 5 kW-LS, DA-2, U.
BP-20,526 (WSBP), Chattahoochee, Fla., Soundway Broadcasting Co. Has: 1580 kHz, 1 kW, Day. Req: 1580 kHz, 5 kW, Day.
BP-20,527 (KSXX), Sandy, Utah, D & B Broadcasting. Has: 630 kHz, 1 kW, DA, Day (Salt Lake City, Utah). Req: 630 kHz, 500 W, 1 kW-LS, DA-2, U (Sandy, Utah).
BP-20,530 (WMCT), Mountain City, Tenn., Johnson County Broadcasting Co., Inc. Has: 1390 kHz, 500 W, Day. Req: 1390 kHz, 1 kW, Day.
BP-20,532 (WCBK), Martinsville, Ind., Morgan County Broadcasters, Inc. Has: 1540 kHz, 250 W, Day. Req: 1540 kHz, 500 W, Day.
BP-20,535 (WTKO), Ithaca, N.Y., Ivy Broadcasting Co., Inc. Has: 1470 kHz, 500 W, 1 kW-LS, DA-N, U. Req: 1470 kHz, 500 W, 5 kW-LS, DA-N, U.
BP-20,538 (KRKK), Rock Springs, Wyo., Media West, Inc. Has: 1360 kHz, 500 W, 1 kW-LS, DA-N, U. Req: 1360 kHz, 1 kW, 5 kW-LS, DA-N, U.
BP-20,539 (WHLP), Centerville, Tenn., Trans-Air Broadcast Corp. Has: 1570 kHz, 1 kW, Day. Req: 1570 kHz, 5 kW, Day.
BP-20,541 (KKIK), Waco-Marlin, Tex., Jamar Media, Inc. Has: 1010 kHz, 10 kW, DA, Day. Req: 1010 kHz, 2.5 kW, 10 kW-LS, DA-2, U.
BP-20,543 (KOGT), Orange, Tex., Sabine Area Broadcasting Corp. Has: 1600 kHz, 1 kW, DA-N, U. Req: 1600 kHz, 1 kW, 5 kW-LS, DA-2, U.
BP-20,544 (WSCP), Sandy Creek-Pulaski, N.Y. Oswego-Jefferson Broadcasting, Inc. Has: 1070 kHz, 1 kW, Day. Req: 1070 kHz, 2.5 kW, Day.
BP-20,546 (WVNH), Salem, N.H., Salem Broadcasting Co., Inc. Has: 1110 kHz, 5 kW, DA, Day. Req: 1110 kHz, 25 kW, DA, Day.
BP-20,548 (KSOP), South Salt Lake City, Utah, KSOP, Inc. Has: 1370 kHz, 1 kW, Day (Salt Lake City, Utah). Req: 1370 kHz, 500 W, 5 kW-LS, DA-N, U (South Salt Lake City).
BP-20,551 (WPLA), Plant City, Fla., WPLA Broadcasting Co., Inc. Has: 910 kHz, 1 kW, Day. Req: 910 kHz, 1 kW, DA-1, U.
BP-20,554 (KAIM), Honolulu, Hawaii, Christian Broadcasting Association. Has: 870 kHz, 5 kW, U. Req: 870 kHz, 50 kW, DA-1, U.
BP-20,555 (WPNC), Plymouth, N.C., Ralph D. Epperson. Has: 1470 kHz, 1 kW, Day. Req: 1470 kHz, 5 kW, Day.
BP-20,556 (KISA), Honolulu, Hawaii, Hagadone Capital Corp. Has: 1540 kHz, 5 kW, Day. Req: 1540 kHz, 5 kW, U.
BP-20,560 (new), Spencer, Tenn., Spencer Broadcasting Co. Req: 1420 kHz, 500 W, Day.
BP-20,562 (WKKS), Vanceburg, Ky., Ohio Valley Broadcasting Co. Has: 1570 kHz, 250 W, Day. Req: 1570 kHz, 1 kW, Day.
BP-20,567 (WQDI), Homestead, Fla., Radio South Dade, Inc., Has: 1430 kHz, 500 W, Day. Req: 1430 kHz, 500 W, DA-N, U.
BP-20,572 (WKSJ), Prichard, Ala., Capitol Broadcasting Corp. Has: 1270 kHz, 1 kW, Day. Req: 1270 kHz, 5 kW, Day.
BP-20,574 (new), Salyersville, Ky., Licking Valley Radio Corp. Req: 1140 kHz, 1 kW, Day.
BP-20,575 (new), Florala, Ala., Florala Broadcasting Co., Inc. Req: 1230 kHz, 250 W, 1 kW-LS, U.
BP-20,577 (new), Sun Prairie, Wis., Car-Mel Broadcasting. Req: 1190 kHz, 500 W, DA, Day.
BP-20,578 (new), Ketchikan, Alaska, Sitka Broadcasting Co., Inc. Req: 1290 kHz, 5 kW, U.
BP-20,580 (new), Umatilla, Oreg., Interfaith Christian Center. Req: 1090 kHz, 2.5 kW, Day.
BP-20,581 (new), Dillon, Colo., Alan K. Levin. Req: 1130 kHz, 5 kW, Day.
BP-20,584 (new), Webster, Mass., Lakeview Broadcasting Co., Inc. Req: 940 kHz, 250 W, Day.
BP-20,586 (new), Crescent City, Fla., Bascap Radio, Inc. Req: 1330 kHz, 1 kW, DA, Day.
BP-20,587 (WJNJ), Atlantic Beach, Fla., WKTX, Inc. Has: 1600 kHz, 1 kW, Day. Req: 1600 kHz, 5 1kW, Day.

BP-20,590 (new), Adamsville, Tenn., Dixie Communications, Inc. of Tennessee. Req: 1540 kHz, 250 W., Day.
BP-20,591 (new), Icard Township, N.C. Jimmy R. Jacumin. Req: 1580 kHz, 5 kW, DA, Day.
BP-20,592 (new), Greenfield, Mass., Poet's Seat Broadcasting, Inc. Req: 1520 kHz, 10 kW, DA, Day.
BP-20,595 (new), West Hazleton, Pa., Radio Action Co. Req: 1300 kHz, 5 kW, DA, Day.
BP-20,596 (new), Flemingsburg, Ky., Fleming County Broadcasting, Inc. Req: 1060 kHz, 500, W, DA, Day.
BP-20,597 (new), Elgin, Tex., Bastrop County Communications, Inc. Req: 1440 kHz, 500 W, DA-2, U.
BP-20,612 (KUKA), San Antonio, Tex., Por Favor, Inc. Has: 1250 kHz, 1 kW, Day. Req: 1250 kHz, 1 kW, DA-N, U.
BP-20,613 (new), Prichard, Ala., Mobile Broadcast Service, Inc. Req: 960 kHz, 2.5 kW, Day.
BP-20,616 (new), Pittsburgh, Ky., Q Radio Group, Inc. Req: 1600 kHz, 500 W, Day.
BP-20,617 (new), Lexington, N.C., Eastco Media, Inc. Req: 1140 kHz, 2.5 kW, DA, Day.
BP-20,619 (new), Valdez, Alaska, Prince William Sound Broadcasters—a partnership. Req: 1400 kHz, 250 W, 1 kW-LS, U.
BP-20,620 (new), Hilton Head Island, S.C. Coastal Empire Broadcasting Co., Inc. Req: 1130 kHz, 1 kW, Day.
BP-20,624 (new), Gorham, Maine, Dirigo Communications, Inc. Req: 1590 kHz, 2.5 kW, 5 kW-LS, DA-2, U.
BP-20,626 (new), Vail, Colo., Radio Vail Inc. Req: 1360 kHz, 5 kW, Day.
BP-20,628 (WANB), Waynesburg, Pa., Commonwealth Broadcasters, Inc. Has: 1580 kHz, 250 W, Day. Req: 1580 kHz, 1 kW (500 W C.R.), Day.
BP-20,678 (WEZQ), Winfield, Ala., John Self. Has: 1300 kHz, 1 kW, Day. Req: 1300 kHz, 5 kW, Day.
BP-20,721 (KKAP), Aptos-Capitola, Calif., KKAP Broadcasting Co. Has: 1540 kHz, 1 kW, Day. Req: 1540 kHz, 10 kW, DA, Day.
BP-20,745 (WXVI), Montgomery, Ala., Brothers Broadcasting Corp. Has: 1600 kHz, 1 kW, DA-N U. Req: 1600 kHz, 1 kW, 5 kW-LS, DA-2, U.
BP-20,800 (new), Bald Knob, Ark., John Paul Capps. Req: 710 kHz, 250 W, DA, Day.
BP-20,830 (new), Hilton Head Island, S.C., Calibogue Broadcasting Co. Req: 1130 kHz, 1 kW, Day.
BP-20,863 (new), Blountville, Tenn., Morgan Broadcasting Co. Req: 1140 kHz, 250 W, Day.
BP-21,139 (WMSO), Collierville, Tenn., Albert L. Crain. Has: 1590 kHz, 500 W, Day. Req: 1220 kHz, 2.5 kW, DA, Day.
BP-21,151 (new), Dimondale, Mich., B D T & W Broadcasting Co. Req: 1170 kHz, 1 kW, DA, Day.
BP-21,160 (KBMR), Lincoln, N.D., KBMR Radio, Inc. Has: 1130 kHz, 10 kW, Day (Bismarck, N. Dak.). Req: 1130 kHz, 10 kW, 50 kW-LS, DA-2, U (Lincoln, N. Dak.).
BP-21,187 (new), Vienna, Ga., Dooley Broadcasting. Req: 1550 kHz, 1kW, Day.

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[FCC 78-322]

MINORITY OWNERSHIP OF BROADCASTING FACILITIES

Statement of Policy

MAY 25, 1978.

One decade ago, as a partial response to the concerns expressed in the Report of the National Advisory Committee on Civil Disorders ("The Kerner Report"),[1] the Commission articulated policies and principles which would guide it in its consideration of complaints that its licensees—or those who would be its licensees—had discriminated against minorities in their employment practices.[2] We observed that "we simply do not see how the Commission could make the public interest findings as to a broadcast applicant who is deliberately pursuing or preparing to pursue a policy of discrimination—of violating the National Policy."[3]

One year later, July 16, 1969, the Commission adopted rules which, in addition to forbidding discrimination on the basis of race, color, religion, or national origin, also required that "equal opportunity in employment * * * be afforded by all licensees or permittees * * * to all qualified persons."[4] To meet this goal, licensees were required to develop a program of specific practices designed to assure equal opportunity in every aspect of station employment policy and practice. On May 20, 1970, the Commission adopted rules requiring most of the licensees within its jurisdiction to file annual employment reports and a written equal employment opportunity program with certain application forms.

Just 2 years ago, we reiterated and clarified our policy on employment discrimination. We emphasized that our rules embodied the concepts of nondiscrimination and affirmative action, observing that:

> An Affirmative Action Plan is a set of specific and result oriented procedures which broadcasters must follow to assure that minorities and women are given equal and full consideration for job opportunities.[5]

In adopting the model EEO program proposed in 1975, the Commission noted that:

> As we have moved with steadily increasing actions to strengthen our rules and policies in the area of nondiscrimination in the employment policies and practices of broadcast station licensees, we have attempted to do so in line with our primary statutory mandate—the regulation of communication by wire and radio in the public interest * * *.
>
> [W]e have sought to limit our role to that of assuring on an overall basis that stations are engaging in employment practices which are compatible with their responsibilities in the field of public service broadcasting.[6]

The Supreme Court has spoken favorably of such Commission actions. In *NAACP* v *FPC*, 425 U.S. 662, 670 n. 7 (1976) the Court observed:

> The Federal Communications Commission has adopted regulations dealing with the employment practices of its regulatees * * *. These regulations can be justified as necessary to enable the FCC to satisfy its obligation under the Communications Act of 1934 * * * to ensure that its licensees' programming fairly reflects the tastes and viewpoints of minority groups.

The Commission has taken action on other fronts as well to assure that the needs, interests and problems of a licensee's community (including minorities within that community) are both ascertained and treated in the programming of the licensee. Under our ascertainment requirements[7] licensees are required to contact community leaders and members of the general public to obtain information about community interests and to present programming responsive to those interests. To aid licensees in these efforts, we have developed a community leader checklist consisting of 20 groupings or institutions which we believe are found in most communities. Reflecting our commitment to the expression of minority viewpoints, we have required that licensees specifically contact minorities in a community as a distinct grouping or institution (among the 20 groupings outlined by the Commission) from which representative leaders are to be drawn. Moreover, the Commission requires that the licensee interview minorities and women within the 19 "non-minority" institutions or groupings which it also expects the licensee to contact as part of its ascertainment procedure.

While the broadcasting industry has on the whole responded positively to

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[1] Report of the National Advisory Commission on Civil Disorders, (New York: Bantam Books, 1968).

[2] *Petition for Rulemaking to Request Licensees to Show Nondiscrimination in their Employment Practices*, 13 FCC 2d 766 (1968). ("(A) petition or complaint raising substantial issues of fact concerning discrimination in employment practices calls for full exploration by the Commission before the grant of the broadcast application before it.")

[3] Id. at 769.

[4] *Nondiscrimination Employment Practices of Broadcast Licensees*, 18 FCC 2d 240 (1969). "Sex" was added as an impermissible basis for discrimination in May 1970. *Nondiscrimination Employment Practices of Broadcast Licensees*, 23 FCC 2d 430 (1970).

[5] *Nondiscrimination in the Employment Policies and Practices of Broadcast Licensees*, 54 FCC 2d 354, 358 (1975).

[6] *Nondiscrimination in the Employment Policies and Practices of Broadcast Licensees*, 60 FCC 2d, 226, 229-230 (1976).

[7] *Ascertainment of Community Problems by Broadcast Applicants*, 57 FCC 2d 418 (1976).

its ascertainment obligations and has made significant strides in its employment practices, we are compelled to observe that the views of racial minorities [8] continue to be inadequately represented in the broadcast media.[9] This situation is detrimental not only to the minority audience but to all of the viewing and listening public. Adequate representation of minority viewpoints in programming serves not only the needs and interests of the minority community but also enriches and educates the nonminority audience. It enhances the diversified programming which is a key objective not only of the Communications Act of 1934 but also of the first amendment.

Thus, despite the importance of our equal employment opportunity rules and ascertainment policies in assuring diversity of programming it appears that additional measures are necessary and appropriate. In this regard, the Commission believes that ownership of broadcast facilities by minorities is another significant way of fostering the inclusion of minority views in the area of programming.

As the Commission's Minority Ownership Task Force Report recounts:

> Despite the fact that minorities constitute approximately 20 percent of the population, they control fewer than *one percent* of the 8,500 commercial radio and television stations currently operating in this country. Acute underrepresentation of minorities among the owners of broadcast properties is troublesome in that it is the licensee who is ultimately responsible for identifying and serving the needs and interests of his audience. Unless minorities are encouraged to enter the mainstream of the commercial broadcasting business, a substantial proportion of our citizenry will remain underserved, and the larger nonminority audience will be deprived of the views of minorities.[10]

It is apparent that there is a dearth of minority ownership in the broadcast industry. Full minority participation in the ownership and management of broadcast facilities results in a more diverse selection of programming. In addition, an increase in ownership by minorities will inevitably enhance the diversity of control of a limited resource, the spectrum. And, of course, we have long been committed to the concept of diversity of control because "diversification * * * is a public good in a free society, and is additionally desirable where a government liecnsing system limits access by the public to the use of radio and television facilities." [11] What is more, affecting programming by means of increased minority ownership—as is also the case both with respect to our equal employment opportunity and ascertainment policies—avoids direct government intrusion into programming decisions.

Hence, the present lack of minority representation in the ownership of broadcast properties is a concern to us. We believe that diversification in the areas of programming and ownership—legitimate public interest objectives of this Commission—can be more fully developed through our encouragement of minority ownership of broadcast properties. In this regard, the Commission is aware of and relies upon court pronouncements on this subject.

The United States Court of Appeals for the District of Columbia observed in *Citizens Communications Center* v. *FCC*, 447 F. 2d 1201 (D.C. Cir. 1971):

> Since one very significant aspect of the "public interest, convenience, and necessity" is the need for diverse and antagonistic sources of information, the Commission simply cannot make a valid public interest determination without considering the extent to which the ownership of the media will be concentrated or diversified by the grant of one or another of the applications before it.
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> * * * * *
>
> As new interest groups and hitherto silent minorities emerge in our society, they should be given the same stake in the chance to broadcast on our radio and television frequencies.[12]

In *TV 9 Inc.* v. *FCC*, 495 F. 2d 929 (D.C. Cir. 1973), cert. denied, 418 U.S. 986 (1974), the Court again dealt with the issue of minority ownership. In reversing a decision where the Commission had refused to award merit to an applicant in a comparative proceeding based upon minority ownership and participation the Court emphasized:

> It is consistent with the primary objective of *maximum diversification of ownership of mass communications media* for the Commission in a comparative license proceeding to afford favorable consideration to an applicant who, not as a mere token but in good faith, as broadening community representation, gives a local minority group media entrepreneurship * * *.
>
> We hold only that when minority ownership is likely to *increase diversity of content*, especially on opinion and viewpoint, merit should be awarded.
>
> * * * * *
>
> The fact that other applicants propose to present the views of such minority groups in their programming, although relevant, does not offset the fact that it is upon ownership that public policy places primary reliance with respect to diversification of content, and that historically has proved to be significantly influential with respect to editorial comment and the presentation of news.[13]
>
> * * * * *

The Court made plain that minority ownership and participation in station management is in the public interest both because it would inevitably increase the diversification of control of the media and because it could be expected to increase the diversity of program content.[14]

The Commission has acted in accordance with these judicial expressions. Its Review Board has afforded comparative merit to applicants for construction permits where minority owners were to participate in the operation of the station.[15] The Commission itself has ordered the expedited processing of several applications filed by applicants with significant minority ownership interests.[16]

Nevertheless, the continuation of an extreme disparity between the representation of minorities in our population and in the broadcasting industry requires further Commission action.[17] Accordingly, in issuing this statement of policy, we today endorse our commitment to increasing significantly minority ownership of broadcast facilities.

To implement our policy we initiate the first of several steps we expect to consider in fostering the growth of minority ownership.

In conjunction with our customary examination of assignment and transfer applications,[18] we intend to examine such applications where a sale is proposed to parties with a significant

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[8] For purposes of this statement, minorities include those of Black, Hispanic Surnamed, American Eskimo, Aleut, American Indian, and Asiatic American extraction.

[9] See Federal Communications Commission's Minority Ownership Task Force, Minority Ownership Report (1978); U.S. Commission on Civil Rights, Window Dressing on the Set (1977); See also the Kerner Report, supra at 207, 208, 210.

[10] Minority Ownership Report, supra.

[11] *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393, 394 (1965).

[12] 447 F. 2d at 1213 n. 36.

[13] 495 F. 2d at 937-38 [emphasis added].

[14] As the Court observed in a subsequent opinion: "The entire thrust of *TV 9* is that Black ownership and participation together are themselves likely to bring about programming that is responsive to the needs of the black citizenry, and that that reasonable expectation without 'advance demonstration' gives them relevance." *Garrett* v. *FCC*, 168 U.S. App. D.C. 266, 273, 513 F. 2d 1056, 1063 (1975), 1056, 1063 (D.C. Cir. 1975) [footnote omitted].

[15] *Flint Family Radio, Inc.* 41 P&F Radio Reg. 2d 1155 (1977); *Gainesville Media, Inc.*, 42 P&F Radio Reg. 489 (1978).

[16] *Atlass Communications, Inc.* (WJPC), 61 FCC 2d 995 (1976); *Hagadone Capital Corporation*, FCC 78-123, 42 P&F Radio Reg. 2d 632 (1978); *Letter to Messrs. L. Glaser and Francis E. Fletcher, Jr.* FCC 78-167, adopted February 22, 1978; *Letter to Ken Goodman*, FCC 78-279, adopted April 20, 1978; *Letter to Terry E. Tyler*, FCC 78-280, adopted April 20, 1978.

[17] For a general treatment of the growth of Black-owned radio, see *Bachman, Dynamics of Black Radio*, (1977).

[18] See section 310(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(b).

minority interest to determine whether there is a substantial likelihood that diversity of programming will be increased. In such circumstances, we will make use of our authority to grant tax certificates[19] to the assignors or transferors where we find it appropriate to advance our policy of increasing minority ownership.[20] A similar proposal was advanced to us by the National Association of Broadcasters and has won the endorsement of, among others, the Carter Administration, the American Broadcasting Co., General Electric Broadcasting Co. and the National Black Media Coalition.

Moreover, in order to further encourage broadcasters to seek out minority purchasers, we will permit licensees whose licenses have been designated for revocation hearing, or whose renewal applications have been designated for hearing on basic qualification issues, but before the hearing is initiated, to transfer or assign their licenses at a "distress sale" price[21] to applicants with a significant minority ownership interest, assuming the proposed assignee or transferee meets our other qualifications.

While we normally permit distress sales when the licensee is either bankrupt or physically or mentally disabled, there is precedent for such sales based on other grounds. See e.g. *Radio San Juan*, 29 P&F Radio Reg. 2d 607 (1974). The avoidance of time consuming and expensive hearings will more than compensate for any diminution in the license revocation process as a deterrent to wrongdoing. We contemplate grants of distress sales in circumstances similar to those now obtaining except that the minority ownership interests in the prospective purchaser will be a significant factor. The parties involved in each proposed transaction will be expected to demonstrate to us how the sale would further the goals on which we are today basing the extension of our distress sale policy. All such transactions will be scrutinized closely to avoid abuses.

The Congressional Black Caucus has petitioned for rulemaking to permit distress sales to minorities. While we endorse the goal of such a proposal we have concluded that cases should be reviewed as they arise to determine that the objectives of our policies will be met. Consequently, for the present a rigid rule on such sales will not be adopted.

Applications by parties seeking relief under our tax certificate and distress sale policies can be expected to receive expeditious processing.

We are keenly aware that the first steps we announce today do not approach a total solution to the acute underrepresentation problem. They are made possible because proposals raising these issues have been submitted to us and these proposals, the collective comments received thereon, and the findings of our Minority Ownership Task Force provide us with a compelling record upon which to base our action.

Beyond the steps taken today, we intend to examine, among other things, the recommendations set forth in the Minority Ownership Report. Also, while the immediate area of concern of this statement has been broadcasting, it is expected that in the future attention will also be directed towards improving minority participation in such services as cable television and common carrier. Finally, as was concluded in our Minority Ownership Report, if the goal of significant minority ownership is to be reached, Congress, other governmental agencies, and the private sector must join in these efforts. We welcome petitions for rulemaking or other submissions from concerned parties as to other actions we might take to reach our objectives.[22]

Action by the Commission May 17, 1978. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, White, and Brown.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-16022 Filed 6-8-78; 8:45 am]

[19] Under 26 U.S.C.A. section 1071, the Commission can permit sellers of broadcast properties to defer capital gains taxation on a sale whenever it is deemed "necessary or appropriate to effectuate a change in a policy of, or the adoption of a new policy by, the Commission with respect to the ownership and control of radio broadcasting stations * * *." Originally tax certification was used to remove the hardship of involuntary transfer as a result of divestiture imposed by the Commission's multiple ownership rules. Now, however, tax certificates are routinely approved in voluntary sales as an incentive to licensees to divest themselves of communications properties grandfathered under the multiple ownership rules. *Issuance of Tax Certificates*, 19 P&F Radio Reg. 2d 1831 (1970).

[20] We currently contemplate issuing a certificate where minority ownership is in excess of 50 percent or controlling. Whether certificates would be granted in other cases will depend on whether minority involvement is significant enough to justify the certificate in light of the purpose of the policy announced herein.

[21] In order to provide incentive for broadcasters opting for this approach, we would expect that the distress price would be somewhat greater than the value of the unlicensed equipment, which could be realized even in the event of revocation. See *Second Thursday Corporation*, 22 FCC 2d 515 (1970) recon. granted 25 FCC 2d 112 (1970); *Northwestern Broadcasting Corporation* (WLTH), 65 FCC 2d 66 (1977).

[22] For example, while today's actions are limited to minority ownership because of the weight of the evidence on this issue, other clearly definable groups, such as women, may be able to demonstrate that they are eligible for similar treatment.

[6730-01]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311 (p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to part 542 of title 46 CFR.

In addition, notice is also given that the operators indicated by an asterisk (*) have established evidence of financial responsibility, with respect to the vessels indicated, as required by subsection (c) of section 204 Trans-Alaska Pipeline Authorization Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Alaska Pipeline) pursuant to part 543 of title 46 CFR.

Certificate No.	*Owner/Operator and Vessels*
01428	Ocean Transport & Trading Ltd.: *Leonor Maria.*
01431	F. Bolton Group Ltd.: *Reynolds, Rossetti, Rubens.*
01432	David Shipping Inc.: *Nephele.*
02001	Rederiaktiebolaget Transatlantic: *Manaure V, Manaure VI, Saint Jacques.*
02038	Polskie Linie Oceaniczne: *Smolny, Norwid.*
02190	Bugsier Reederei und Bergungs Aktiengesellschaft: *Lloyd Sydney.*
02195	Welsh Overseas Freighters Ltd.: *Welsh Trident, Welsh Endeavour, Welsh Troubadour, Welsh Voyager.*
02199	Atlantic Richfield Co.: *Arcographite I, Arcographite II.*
02233	Nedlloyd Bulk Antillen N.V.: *Amstellaan.*
02367	Canadian Pacific (Bermuda) Ltd.: *Fort Carleton, Fort Hamilton.*
02416	Boland & Cornelius Inc.: *Saginaw Bay.*
02496	United States Steel Corp.: *A1, A2.*
02833	Ponte Naya (CIA Maritima) S.A.: *Pedro Menendez, Ponte Pasaje, Ponte Pedrido.*
02836	The Scindia Steam Navigation Co. Ltd.: *Jalatapi.*
02956	Ashland Oil, Inc.: *AO 801, AO 802, AO 803, AO 804.*
02982	The Shipping Corp. of India, Ltd.: *Dadabhai Naoroji, State of Nagaland.*
03271	Sealand Service, Inc.: *Sea Land Venture, Sea Land Leader, Sea Land Economy.*
03276	Universe Tankships, Inc.: *Universe Patriot.*
03483	Sankyo Kaiun Kabushiki Kaisha: *Logistic Ace.*
03484	Sanko Kisen K.K.: *Kyuko Maru.*
03635	Hines Inc.: *Hines 433B.*
03879	Zapata Haynie Corp.: *Grand Chenier.*
04226	National Marine Service Inc.: *N.M.S. No. 1408, N.M.S. No. 1409.*
04230	James Fisher & Sons Ltd.: *Pacific Fisher.*
04398	Hapag-Lloyd Aktiengesellschaft: *Koeln Express, America Express.*
04642	South African Marine Corp. Ltd.: *Venture.*
04939	Panocean Anco Ltd.: *Anco Endeavour.*
05081	United States Dredging Corp.: *Magic City II.*
05098	Esso Tankers Inc.: *Esso Portland.*
05199	Prekookeanska Plovidba: *Rumija.*
05437	Dow Chemical Co.: *NMS 1452, NMS 1457.*

Certificate No.	Owner/Operator and Vessels
05520	Union Carbide Corp.: *USL-148, USL-151.*
04736	Flota Cubana de Pesca: *Golfo de Guacanaybo.*
06038	Suomen Hoyrylaiva Osakeyhtio Finska Angfartygs Aktiebolaget: *Patria, Khalij Enterprise, Chase One, Chase Two.*
06077	Shinwa Shosen Kaisha Ltd.: *Mie Maru No. 7, Tosui Maru No. 11, Kaki Maru No. 3.*
06084	Trailer Marine Transport Corp.: *La Reina.*
06121	Charles S. Wallace III, Inc.: *Sea Charger.*
06208	Hochseefischerei Nordstern A.G.: *Friedrich Busse, Sagitta Maris.*
06248	Commercial Corporation Sovrybflot: *Aleksey Makhalin, Arktika, Ernst Teljman, Kamtchatskaya Pravda, Kamyshin, Khibinskye Gory, Lopatin, Mathias Thesen, Mys Elagina, Mys Suslova, Otto Grotevolj, Mys Voronina, Mys Osipova, Mys Orekhova, Professor Baranov, Prometei, Rosa Luxemburg, Tikhookeansky, Voskhod, Zvezda, Koriaki, Relavas, Kristian Raud.*
06384	Mercury Shipping Co., Ltd.: *Mercury Bay, Mercury Gulf.*
06409	India Steamship Co., Ltd.: *Indian Grace.*
06510	Compagnie Nationale Algerienne de Navigation C.N.A.N.: *Timimoun.*
06877	Societe Francaise de Transports Maritimes: *Ville de Brest, Ville de Bordeaux.*
07208	Iraqui State Enterprise for Maritime Transport: *Babylon, 14 July, Baghdad, Basrah, Sinbad.*
07255	Teh Tung Steamship Co., Ltd.: *Silver Bay.*
07574	Georgian Shipping Co.: *Nikolay Voznesenskiy.*
0	:
07623	Dillingham Tug & Barge Corp.: *DTB-37.*
07795	Oriental Ocean Carriers, Inc.: *Atlantic Seatrade.*
08615	Dong Sue Shipping Co., Ltd.: *Jindalle.*
08658	Il Woo Marine Co., Ltd.: *Ocean Dynamic.*
08702	Bowling Green Navigation Corp.: *Gretta.*
08994	Tranquility Shipping and Trading Corp. S.A.: *Petrola 31.*
08999	Sause Bros. Ocean Towing Co., Inc.: *Bandon.*
09114	Blue Saga Shipping Co., Ltd.: *Hilda Wesch.*
09387	A/S Salvator Marine Services: *Achilles Jason.*
09722	The Riffe Marine Corp: *RR 103.*
10023	United Shipping Co., Ltd.: *Del Sur, Corona Del Mar.*
10438	Oriental Pioneer Line S.A.: *Glen Eagle.*
10582	Ohio Shipping Corp.: *Ohio.*
11146	Pan Win Shipping Co., S.A.: *Kawana.*
11153	Sea Containers International Corp.: *Strider Australia.*
11161	Maraven S.A.: *Pariata, Caruao.*
11303	Sea Transport Co., Inc.: *Micronesia Sunrise.*
11322	Navimar S.A.: *Zarate.*
11363	Spanliverpool Shipping Co.: *Pacific Wasa.*
12115	Nippon Kyodo Hogei K.K.: *Seki Maru No. 17.*
12118	Adonis Shipping Corp.: *Golden Canary.*
12179	Cerrahgil Denizcilik Nakliyat ve Ticaret A.S.: *C. Tahsin.*
12217	Canadian National Railways Co.: *Marine Evangeline.*
12393	Hyundae Enterprise Co., Ltd.: *Han Woo.*
12434	United Arab Shipping Co. (S.A.G.): *Al Muharraq, Al Rayyan, Salah Aldeen.*
12676	Oriental Pearl Line Kabushiki Kaisha: *Zuiho Maru.*
12796	Teo Shipping Corp.: *Lucky Wave.*
12834	Central Rivers, Inc.: *George Weathers.*
12999	Silverdee Shipping, Ltd.: *Bandama.*
13025	Federal Pacific (Liberia), Ltd.: *Federal St. Clair.*
13030	Societe Italo Congolaise D'Armement et Peche: *Manicongo.*
13157	Triscatin Shipping S.A.: *Golden Ace.*
13167	Map Tankers Inc.: *Unicorn Michael.*
13191	Fletamentos Maritimos S.A.: *Aragon.*
13233	Universal River, Inc.: *Litsa K.*
13368	Sanko Kisen (Cayman), Ltd.: *Sanko Robin, Asia Alliance, Pan Alliance, Oceanic Kristin, Oceanic Erin, Serpens Constellation, Sanko Gerd, Continental Monarch.*
13392	Timur Carriers (Private), Ltd.: *TFL Independence.*
13434	Rommany Compania Naviera S.A.: *Blue Tiger.*
13467	Biscayan Towage & Salvage Co.: *Biscay Star, Biscay Sky.*
13494	Brema Reederei GMBH & Co. KG.: *Framnes.*
13516	Neptune Gamma (PTE), Ltd.: *Neptune Spinel.*
13519	Crisantema Line S.A.: *Bela Mondo.*
13563	Continental Steamship Co.: *Miley.*
13581	Marca Line: *Santa Teresa.*
13609	Petramar: *Al Idrissi, Samir.*
13610	Marphocean: *Ibn Rochd, Ibn Jabir, Ibn Khaldoun, Ibn Otman, Al Ghassani.*
13622	Nativol S.A.: *Palm Islands.*
13635	Cajun Marine Service, Inc.: *T-104.*
13636	Centramar Shipping Co. S.A.: *Inca Empress.*
13657	Compania De Navegacion Dormar Ltda.: *Yacona.*
13664	Tragonisi Shipping Corp.: *Aegis Venture.*
13710	Martinez, Pereira Y Cia S.A.N.: *Castilla, Francisca.*
13724	Matador Service, Inc.: *Koch Fueler No. 1, H & S Barge No. 3, H & S Barge No. 2.*
13738	Allocean Container Transports, Ltd.: *Oriental Researcher.*
13744	The Oliver Transportation Co. and Hintenach Coal Corp.: *Emi 900.*
13756	Marine Alaska, Inc.: *B/T Alaska.*
13770	Silverness Shipping, Ltd.: *Taabo.*
13772	S.P.A. Copesca: *Airone, Pellicano.*
13790	C K Processing Co.: *Melson I.*
13797	Galleon Shipping Corp.: *Galleon Coral.*
13801	Shawnee, Inc.: *Agapi.*
13811	Rederiet Hamlet: *Hamlet Arabia.*
13818	East Ocean Marine Corp.: *Honest Right.*
13821	Inter-Island Shipping Co.: *Canaveral.*
13822	Western Ventures, Inc.: *Star Trek.*
13823	Elinkamr S.A.: *Ambri.*
13824	Micosta, S.A.: *Mihalis.*
13827	Island Shipping Co.: *Lakeland.*
13828	Dedalos Compania Naviera S.A.: *Niki R, Denis M.*
13829	Paragon Transport Corp. of Monrovia: *Vincenzia.*
13831	Lineas Maritimas De Rio Haina S.A.: *Rio Haina.*
13832	Kalmia Shipping, Inc.: *Ocean Diamond.*
	.....
13834	Salta Shipping Corp., Ltd.: *Hancock Clipper.*
13836	Kuok Singapore Shipping Pte., Ltd.: *Ikan Bilis.*
13839	Ulysses International Navigation, Ltd.: *Annie.*
13840	Oy Hermes Ship, Ltd.: *Passad.*
13841	Oy Mare Ship, Ltd.: *Monsun.*
13842	Swallow Maritime Corp.: *Sea Swallow, Sea Lark.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-16032 Filed 6-3-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1888]

RAMASI SERVICES, INC.

Order of Revocation

On May 31, 1978, Ramasi Services, Inc., 120 Broadway, New York, N.Y. 10005, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1888 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1888 issued to Ramasi Services Inc., be and is hereby revoked effective May 31, 1978.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Ramasi Services, Inc.

ROBERT M. SKALL,
Deputy Director Bureau of Certification and Licensing.

[FR Doc. 78-16033 Filed 6-8-78; 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 July 1978:

ALCOHOL TRAINING REVIEW COMMITTEE

July 13-15; 9 a.m., Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857. Open: July 14; 9-11 a.m. Closed: Thereafter. Contact: Ms. Jeanne Trumble, Room 14C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1056.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism.

Agenda: From 9 a.m. to 11 a.m., July 14, the Committee will be open for reports and announcements of administrative and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above. The NIAAA information contact who will furnish summaries of the meeting and rosters of the Committee members is Mr. Harry Bell, Associate

Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306.

Dated: June 5, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-15959 Filed 6-8-78; 8:45 am]

[4110-86]

Center for Disease Control

IMMUNIZATION PRACTICES 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 Committee meeting.

Name: Immunization Practices Advisory Committee.

Dates: July 6-7, 1978.

Place: Room 207, Building 1, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Ga. 30333.

Time: 8:30 a.m.

Type of Meeting: Open.

Contact Person: H. Bruce Dull, M.D., Executive Secretary of Committee, Building 1, Room 2118, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Ga., 30333, phone: AC/404-633-3311, extension 3701, FTS: 236-3701.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents for public health practice.

Agenda: The Committee will discuss results of data from influenza vaccine field trials and develop a final statement on influenza vaccine for the 1978-79 influenza season.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: June 5, 1978.

WILLIAM C. WATSON, Jr.,
Acting Director, Center for Disease Control.

[FR Doc. 78-16180 Filed 6-8-78; 8:45 am]

[1505-01]

Food and Drug Administration

[Docket No. 78N-0031]

SAFETY OF CERTAIN FOOD INGREDIENTS

Opportunity for Public Hearing

Correction

In FR Doc. 78-10331, appearing at page 17055 in the issue for Friday, April 25, 1978, make the following corrections:

1. On page 17055, middle column, second paragraph under "Supplementary Information", twelfth line, the word "clcium" should read "calcium".

2. On page 17056, in the table under "Substances", insert "Sodium aluminosilicate" after "Magnesium silicate".

[4110-03]

[Docket No. 78F-0145]

SOLVAY AMERICAN CORP.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Solvay American Corp. has filed a petition proposing that the food additive regulations be amended to provide for additional uses of *n*-alkylsulfonate as an emulsifier for vinylidene chloride (VDC) copolymer coatings for food contact applications.

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 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 7B3274) has been filed by Solvay American Corp., 609 Fifth Avenue, New York, N.Y. 10017, proposing to amend § 178.3400 *Emulsifiers and/or surface-active agents* (21 CFR 178.3400) to provide for an increase in the maximum limit for use of *n*-alkylsulfonate as an emulsifier for vinylidene chloride (VDC) copolymer coatings from 2 to 2.6 percent by weight of coating solids. The petition further requests that the regulation be amended to provide for the use of VDC copolymer coatings containing *n*-alkylsulfonate on any substrate acceptable for use with food and in contact with all types of food except distilled spirits.

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: May 31, 1978.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc. 78-15698 Filed 6-8-78; 8:45 am]

[4110-03]

Food and Drug Administration

INITIAL DISTRIBUTORS OF IMPORTED DEVICES

Public Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces two 1-day, public meetings to discuss reguations which apply to initial distributors of imported devices.

DATES: Washington, June 15, 1978: San Francisco, June 29, 1978

FOR FURTHER INFORMATION CONTACT:

Minna Leblang, Bureau of Medical Devices (HFK-132), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910 301-427-7194.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration announces two 1-day open public meetings to discuss requirements that initial distributors of imported devices must meet under the 1976 Medical Device Amendments (Pub. L. 94-295) to the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321 et seq.).

The first meeting will be held Thursday, June 15, 1978, at the Health, Education, and Welfare Building North, 330 Independence Avenue SW., Washington, D.C. The second meeting will be held Thursday, June 29, 1978, at the Environmental Protection Agency, Hearing Room, 215 Fremont Street, San Francisco, Calif. Each meeting will be held from 9 a.m. to 5 p.m.

The meetings will include FDA speakers who will discuss statutory provisions and regulations which apply to initial distributors of imported devices; provide guidance as to how these requirements can be met; and communicate FDA's philosophy and enforcement strategy.

These meetings are free and are open to the public. Because of space and time limitations, persons wishing

to attend either meeting should inform the contact person listed above. However, subject to space availability, any person may register at the door to participate in the meeting.

Dated: June 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-15964 Filed 6-8-78; 8:45 am]

[4110-84]

Health Services Administration

ANNUAL REPORTS OF FEDERAL ADVISORY COMMITTEES

Filing

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Report for the following Health Services Administration Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on Migrant Health.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 300 Independence Avenue SW., Washington, D.C. 20201, telephone 202-245-6791. Copies may be obtained from Mr. Jaime Manzano, Bureau of Community Health Services, Room 7A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-1153.

Dated: May 31, 1978.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator for Management.

[FR Doc. 78-15960 Filed 6-8-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF ENDOSULFAN FOR POSSIBLE CARCINOGENICITY

Availability

Endosulfan (CAS 115-29-7) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade endosulfan for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. Endosulfan was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

The time-weighted average high and low dietary concentrations of endosulfan were, respectively, 952 and 408 ppm for the male rats, and 445 and 223 ppm for the female rats. In mice the high and low time-weighted average concentrations were, respectively, 6.9 and 3.5 ppm for the males and 3.9 and 2.0 ppm for the females. Twenty animals of each sex and species were placed on test as controls. The bioassay of high dose male rats was terminated during week 82, and the bioassay of low dose male rats was terminated during week 74. After a 78-week period of chemical administration, observation of female rats continued for 33 additional weeks and observation of mice continued for 14 additional weeks.

At the doses administered to rats in this study endosulfan was toxic, inducing a high incidence of toxic nephropathy in both sexes and testicular atrophy in males.

In both species high early mortality was observed in the male groups and no conclusions concerning the carcinogenicity of endosulfan can be drawn from this part of the bioassay. However, survival among females of both species was sufficient for meaningful statistical evaluation of the incidence of late-developing tumors. It is concluded that under the conditions of this bioassay, technical-grade endosulfan was not carcinogenic in female Osborne-Mendel rats or in female B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: May 31, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-15536 Filed 6-8-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF PENTACHLORONITROBENZENE FOR POSSIBLE CARCINOGENICITY

Availability

Pentachloronitrobenzene (CAS 82-68-8) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade pentachloronitrobenzene (PCNB) for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. PCNB was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species. The time-weighted average dietary concentrations of PCNB were, respectively, 10,064 and 5,417 ppm for male rats, 14,635 and 7,875 ppm for female rats, 5,213 and 2,606 ppm for male mice, and 8,187 and 4,093 ppm for female mice. After a 78-week period of compound administration, observation of the rats continued for an additional 33 to 35 weeks and observation of the mice continued for 14 or 15 additional weeks.

For each species, 20 animals of each sex were placed on test as controls and fed only the basal diet.

It is concluded that under the conditions of this bioassay PCNB was not carcinogenic in either Osborne-Mendel rats of B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: May 31, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-15535 Filed 6-8-78; 8:45 am]

[4110-39]

National Institute of Education

EXPERIMENTAL PROGRAM FOR OPPORTUNITIES IN ADVANCED STUDY AND RESEARCH IN EDUCATION

Closing Date for Receipt of Applications

This notice is a reminder that the closing date for receipt of applications for the Experimental Program for Opportunities in Advanced Study and Research in Education is June 29, 1978. This closing date and the proposed regulations pursuant to which applications will be evaluated were published in the FEDERAL REGISTER, 43 FR 8234, on February 28, 1978.

Applications are to be mailed or delivered to: National Institute of Education, Proposal Clearinghouse, Room 708, 1832 M Street NW., Washington, D.C. 20208. An application sent by mail will be considered to be received on time by the Clearinghouse if:

(1) It is received at the Clearinghouse by 5 p.m., June 29, 1978; or

(2) The application was sent by registered or certified mail not later than 5 p.m. on June 26, 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. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5 p.m., Washing-

ton, D.C. time, except Saturdays, Sundays, and Federal holidays. Hand-delivered applications will not be accepted after 5 p.m. on the closing date, June 29, 1978. A dated and time-stamped receipt will be issued when the application is received by the Proposal Clearinghouse.

Application materials are available from: Program Staff, Experimental Program for Opportunities in Advanced Study and Research in Education, National Institute of Education, Washington, D.C. 20208, telephone 202-254-5929.

Dated: June 7, 1978.

RICHARD WERKSMAN,
Regulations Officer,
National Institute of Education.

[FR Doc. 78-16248 Filed 6-8-78; 10:11 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

COLVILLE AND NEZ PERCE

Plan for the Use and Distribution of the Confederated Tribes of the Colville Reservation and Joseph Band of Nez Perce Judgment Funds Awarded in Docket 186 Before the Indian Claims Commission

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 210 DM 1.2.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated by the Act of June 12, 1975, 89 Stat. 173, in satisfaction of the award granted to the Confederated Tribes of the Colville Reservation and Joseph Band of Nez Perce in Indian Claims Commission Docket 186. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated February 1, 1978, and was received (as recorded in the Congressional Record) by the House of Representatives on February 6, 1978, and by the Senate on February 9, 1978. Neither House of Congress having adopted a resolution disapproving it, the plan became effective on May 1, 1978, as provided by Section 5 of the 1973 Act, supra.

The plan reads as follows:

The funds appropriated by the Act of June 12, 1975, 87 Stat. 173, in satisfaction of an award granted to the "Confederated Tribes of the Colville Reservation for and on behalf of the Joseph Band of Nez Perce" in Docket 186 before the Indian Claims Commission, including all interest and investment income accruing thereto, less attorney fees and litigation expenses, shall be used and distributed as herein provided.

The Secretary of the Interior (hereinafter "Secretary") shall divide the funds between the Nez Perce Tribe of Idaho and the Confederated Tribes of the Colville Reservation as follows: 118/268ths to the Nez Perce Tribe of Idaho and 150/268ths to the Confederated Tribes of the Colville Reservation of the State of Washington.

I. *Nez Perce Tribe of Idaho.* The Nez Perce Tribe of Idaho's share of the award shall be utilized as follows:

Per capita distribution. The Nez Perce Tribe of Idaho's latest approved membership roll shall be brought current, pursuant to the constitution and bylaws of the Nez Perce Tribe of Idaho, to include all eligible members born on or prior to and living on the effective date of this plan.

Subsequent to the preparation and approval of the membership roll referred to above, the Secretary shall make a per capita distribution of eighty (80) percent on the funds in a sum as equal as possible to each Nez Perce Tribe of Idaho enrollee.

Programing. Twenty (2) percent of the funds shall be utilized for tribal industrial, recreational, agricultural, and financial investment programs as determined by the Nez Perce Tribal Executive Committee subject to the approval of the Secretary.

II. *Confederated Tribes of the Colville Reservation.* The Confederated Tribes of the Colville Reservation's share of the award shall be utilized as follows:

Per capita distribution. The Confederated Tribes of the Colville Reservation's latest membership roll shall be brought current, pursuant to the constitution and bylaws of the Confederated Tribes of the Colville Reservation, to include all eligible members born on or prior to and living on the effective date of this plan.

Subsequent to the preparation and approval of the membership roll referred to above, the Secretary shall make a per capita distribution of the funds in a sum as equal as possible to each Confederated Tribes of the Colville Reservation enrollee.

III. *General provisions.* The per capita shares of living competent adults shall be paid directly to them. The per capita shares of legal incompetents shall be handled pursuant to 25 CFR 104.5. The per capita shares of minors shall be handled prusuant to 25 CFR 60.10(a) and (b)(1) and 104.4, as amended November 5, 1976 (41 FR 48735, 48736). The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. Any amounts remaining after the per capita payment to the enrollees of the above-cited tribes shall revert to the respective tribal governing bodies for use in on-going programs.

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

[FR Doc. 78-15978 Filed 6-8-78; 8:45 am]

[4310-84]

BUREAU OF LAND MANAGEMENT

[NM 33469, 33470 and 33471]

NEW MEXICO

Applicatons

MAY 31, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 6 W.,
Sec. 9, SW¼SE¼;
Sec. 16, NW¼NE¼.
T. 28 N., R. 7 W.,
Sec. 24, W½SW¼.
T. 28 N., R. 11 W.,
Sec. 27, W½NW¼.

These pipelines will convey natural gas across 0.609 of a mile of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what term and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief Branch of Lands
and Minerals Operations.

[FR Doc. 78-15980 Filed 6-8-78; 8:45 am]

[4310-84]

[NM 33476]

NEW MEXICO

Application

MAY 31, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 9 S., R. 30 E.,
Sec. 31, SE¼SE¼.
T. 10 S., R. 30 E.,
Sec. 6, lot 1, S½NE¼ and NW¼SE¼.

This pipeline will convey natural gas across 0.822 of a mile of public lands in Chaves County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief Branch of Lands and Minerals Operations.

[FR Doc. 78-15981 Filed 6-8-78; 8:45 am]

[4310-84]

[NM 33466]

NEW MEXICO

Applicaton

MAY 31, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for five 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 7 W.,
Sec. 26, SW¼SW¼;
Sec. 33, lots 3, 4 and W½SE¼;
Sec. 34, SW¼SE¼;
Sec. 35, NW¼NW¼ and NE¼SE¼.

These pipelines will convey natural gas across 1.117 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what term and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief Branch of Lands and Minerals Operations.

[FR Doc. 78-15982 Filed 6-8-78; 8:45 am]

[4310-84]

SOUTH DAKOTA

Designation of Off-Road Vehicle Restrictions Fort Meade Area

Under the authority of 43 CFR 6010.4 use of off-road vehicles (ORV) on the public lands in sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, T. 5 N., R. 5 E., BHM and 25, 26, 27, 34, 35, 36, T. 6 N., R. 5 E., BHM is restricted to designated roads and trails as of July 1, 1978, and until further notice. The purpose of the restriction is to stop soil erosion, vegetation loss, wildlife habitat loss, and damage to historic and cultural resources.

The restricted area consists of approximately 6700 acres located in Meade County, S. Dak.

The public lands within the designated area will remain open to other resource and recreation uses. Administrative access by ORV is allowed for BLM and BLM contractors, licensees, permittees, and all other Federal, State, and county employees when on official duty. Permits for ORV use in the area may be authorized by the district manager for other special purposes.

The roads and trails designated for ORV use will be marked by signs. A map of the area affected by this designation is available from the South Dakota area office, 310 Roundup Street, Belle Fourche, S. Dak. 57717.

GEORGE S. NEUBERG,
District Manager.

[FR Doc. 78-15979 Filed 6-8-78; 8:45 am]

[4310-84]

SOUTHWESTERN WYOMING DRAFT COAL ENVIRONMENTAL STATEMENT

Extention of Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension of comment period on southwestern Wyoming Draft Coal Environmental Statement.

SUMMARY: Under guidelines published by the Council on Environmental Quality on April 23, 1971, the Department of the Interior will comply with requests from other agencies for an extension of the comment period on the Draft Environmental Statement for Coal Development in southwestern Wyoming. Comments were requested through June 1, 1978, but are hereby extended for an additional 15 days to June 15, 1978. Comments received by that date will be considered before final action is taken on the preparation of a final environmental statement. The Environmental Statement is available for public review in Bureau of Land Management Offices in Cheyenne, Rock Springs, and Kemmerer, and in public libraries in Lincoln, Sweetwater, and Uinta Counties, Wyo.

DATE: Comments by June 15, 1978.

ADDRESS: Send comments to: Team Leader, Coal ES Team, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyo. 82910.

FOR FURTHER INFORMATION CONTACT:

Bob Armstrong, 307-382-6190.

ARNOLD E. PETTY,
Acting Associate Director.

JUNE 8, 1978.

[FR Doc. 78-16240 Filed 6-8-78; 9:03 am]

[4310-70]

National Park Service

APPALACHIAN NATIONAL SCENIC TRAIL ADVISORY COUNCIL, STEERING COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Steering Committee of the Appalachian National Scenic Trail Advisory Council scheduled to be held on June 14, 1978, at the Department of the Interior, 18th and C Streets NW., Washington, D.C., which was published in the FEDERAL REGISTER on May 25, 1978, at page 22459.

Dated: June 5, 1978.

SHIRLEY M. LUIKENS,
Program Manager, Advisory Boards and Commissions, National Park Service.

[FR Doc. 78-16016 Filed 6-7-78; 8:45 am]

[4310-09]

Office of the Secretary

PUBLIC PARTICIPATION IN WATER SERVICE AND REPAYMENT CONTRACT NEGOTIATIONS

Notice of Proposed Procedures for Public Participation in Bureau of Reclamation Water Service and Repayment Contract Negotiations

It is the policy of the Department of the Interior to afford the public an opportunity to participate in the decisionmaking process regarding repayment and water service contracts.

Under the authority of the Secretary of the Interior, as provided in the Reclamation Act of 1902, as amended and supplemented, (32 Stat. 388, 43 U.S.C. 371), notice is given of proposed procedures and guidelines for public participation in water service and repayment contract negotiations conducted by the Bureau of Reclamation, Department of the Interior.

BACKGROUND

The repayment of reimbursable costs associated with reclamation activities requires consummation of contracts between the United States and project beneficiaries. The terms and conditions of such contracts (including but not limited to such matters as quantities of water to be furnished, delivery schedules, construction of facilities, terms and conditions of repayment) affect a wider range of the public than the immediate parties to the contract. In establishing the terms

and conditions of the contract, the views of all affected parties shall be considered and ample opportunity shall be provided for review and comment of a given repayment or water service contract or amendments thereof prior to its execution.

Negotiations on a proposed amendatory contract between the United States and Westlands Water District of the San Luis Unit, Central Valley Project, Calif., are now in process. Those negotiations will be conducted in accordance with the proposed procedures to the extent practicable.

It has been determined that publication and implementation of procedures to allow broader public participation will not significantly affect the quality of the human environment and that no environmental impact statement as required by section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. section 4332(c)) is required. It is also determined that the proposed procedures do not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949 and the Office of Management and Budget Circular A-107. For contracts that are considered to be major Federal actions and if compliance with the National Environmental Policy Act has not been accomplished previously or if such environmental studies need to be updated, the public participation for the environmental statement process will be coordinated with the public participation required for the proposed contract action when possible.

PUBLIC PARTICIPATION PROCEDURES

The scope of these procedures shall apply to all repayment and water service contracts to be executed under Reclamation law, as amended and supplemented.

Notice shall be published by the Department of the Interior in the FEDERAL REGISTER whenever any of the following is to occur:

(1) The Bureau of Reclamation intends to enter into negotiations with potential contractors for new or amendatory contracts described above. Such notice shall include a brief, general description of the proposed action; identification of the specific legislative authority for the proposed contract; a point of public contact for further inquiries and comments; and the period of time in which comments on the proposed contract will be received.

(2) The Bureau of Reclamation intends to hold public hearing(s) on a given draft contract and such notice shall include the date, time, and place of any scheduled public hearing(s). Such notice shall include a concise summary of the general terms and conditions of the proposed contract.

Publication of a notice in the FEDERAL REGISTER shall not preclude the Department of the Interior from providing notice by any other appropriate means.

Public participation shall be assured by the following:

(1) All meetings scheduled by the Bureau of Reclamation for the purpose of discussing terms and conditions of a proposed contract shall be open to the public as observers. Advance notice of such meetings need not be given and may be scheduled at the convenience of the parties involved.

(2) The Commissioner of Reclamation shall determine if, when, and where public hearings will be held by the Bureau of Reclamation to receive comments on repayment or water service contracts. A summary of all written comments received and testimony presented at any public hearing will be prepared and submitted to the Secretary of the Interior for consideration prior to approval or disapproval of a given contract.

Temporary water service contracts which do not represent a permanent commitment of the water resource in excess of one year shall not be subject to public hearings unless the Commissioner of Reclamation deems such hearings to be appropriate.

(3) The Commissioner of Reclamation shall establish a point of public access to each contract under consideration. Copies of each contract, and a summary thereof, will be made available. Upon request, such material will be sent to the affected parties for their review.

The Department intends to act promptly to implement changes in its public participation procedures. Interested persons may submit written comments, suggestions, or objections regarding the proposed procedures to the Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, Attention: code 401. Comments must be received by July 10, 1978.

For further information you may contact:

Mr. Aldon D. Nielsen, Assistant Chief, Division of Water and Land, Bureau of Reclamation, Washington, D.C. 20240, (202)-343-5104.

Dated: June 1, 1978.

DANIEL P. BEARD,
Acting Assistant Secretary of the Interior.

[FR Doc. 78-15886 Filed 6-8-78; 8:45 am]

[8230-01]

INTERNATIONAL COMMUNICATION AGENCY

ADVISORY PANEL ON CLASSICAL MUSIC OF THE ADVISORY COMMITTEE ON MUSIC

Meeting

Pursuant to Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Classical Music has scheduled a 2-day meeting to be held on Monday and Tuesday, June 26 and 27, in room 507 at State Annex 2, 515 22nd Street NW., Washington, D.C. The meeting hours will be from 9:45 a.m. to 12:30 p.m. and from 2 to 5:30 p.m. both days.

The sessions will be open to the public. The agenda is:

(1) Review of program policies and guidelines;

(2) Review of recent overseas tours in the music field sponsored by the International Communication Agency; and

(3) Evaluation of tapes and records of musicians and music groups planning tours abroad, and groups which wish to be considered as candidates for grants, sponsorship or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

For the purpose of fulfilling building security requirements, it is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before June 22. The telephone number is area code 202-632-2846.

The meeting room has a seating capacity of 30, so the public will be admitted on a first-come, first-served basis.

JANE S. GRYMES,
Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 78-16051 Filed 6-8-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 77-34]

ROOSEVELT PETER JACKSON, M.D.

Revocation of Registration

On November 9, 1977, the Administrator of the Drug Enforcement Administration (DEA) directed to Roosevelt Peter Jackson, M.D. (Respondent) an Order to Show Cause proposing to revoke the Respondent's DEA Certificate of Registration, AJ1172472, for reason that on September 20, 1977, in

the U.S. District Court for the Northern District of Georgia, the Respondent was convicted of 42 counts of knowingly, intentionally and unlawfully dispensing Quaalude, a schedule II controlled substance. On November 28, 1977, the Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause.

On March 1, 1978, a hearing in this matter was held, the Hon Francis L. Young, Administrative Law Judge, presiding. The Respondent appeared pro se, his atttorney having earlier notified the administrative law judge that he had withdrawn his appearance and that the Respondent would be representing himself. On May 17, 1978, pursuant to 21 CFR 1316.65, Judge Young certified the record of these proceedings to the Administrator, together with his opinion, recommended rulings and decision, and proposed findings of fact and conclusions of law.

The administrative law judge concluded, as a matter of law, that there is a lawful basis for the revocation of the Respondent's DEA registration pursuant to 21 U.S.C. 824(a)(2), the Respondent having been convicted of felony offenses relating to controlled substances. Judge Young further found that in less than 16 full months, 4,902 of the Respondent's Quaalude prescriptions had been filled at a single Atlanta pharmacy. If each of these prescriptions had been written during a patient visit, for which Dr. Jackson's usual charge of $20 or $25 had been paid, the Respondent would have received gross income of between $98,000 and $123,000 for these prescriptions alone.

Judge Young found that if the Respondent is as sincerely dedicated to his methodology as he represents himself to be, then he is misguided, so misguided that the judge concluded that it is quite likely that Dr. Jackson would again violate the laws regulating controlled substances in pursuit of his objectives. Indeed, even at the hearing of this matter, the Respondent continued to espouse the efficacy of his discredited modus operandi. Judge Young concluded that the Respondent seemed not to have grasped the fact that his procedures were unlawful. Hence, the administrative law judge found that a preponderance of the evidence supported a decision to revoke the Respondent's DEA registration.

The administrator, after full consideration of the entire record in this matter, hereby adopts, in their entirety, the opinion and recommended ruling, findings of fact, conclusions of law and proposed decision of the administrative law judge. The administrator is satisfied that it would not be in the public interest to permit the Respondent to retain his DEA registration.

Accordingly, under the authority vested in the Attorney General by section 304 of the Controlled Substances Act (21 U.S.C. 824), and redelegated to the Administrator of the Drug Enforcement Administration, it is ordered that Dr. Jackson's DEA Certificate of Registration, AJ1172472, be, and it hereby is revoked, effective immediately.

Dated: June 5, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-16008 Filed 6-8-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate, or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 5th day of June 1978.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING JUNE 2, 1978

Name of Applicant, Location of Enterprise and Principal Product or Activity

Burke Mountain Recreation, Inc., East Burke, Vt.—Ski resort and recreation area.
National Micronetics, Inc., Kingston, N.Y.—Manufacture of electronic capacitors and resistors.
Taylor Manufacturing Co., Inc., Conyers, Ga.—Manufacture of carpet adhesives.
Rancher's Markets Athens Processing Plant, Inc., Athens, Tex.—Beef slaughtering house.
G.M.G., Inc. and the Dodge House, Inc., Dodge City, Kans.—Motel.
Aero Mech, Inc., Clarksburg, W. Va.—Commuter airline operations.

[FR Doc. 78-15947 Filed 6-8-78; 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 June 19, 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 June 19, 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 25th day of May 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	Articles produced
Fairfield-Noble Corp. (workers)	New York, N.Y.	May 23, 1978	May 23, 1978	TA-W-3,772	Houses the executive, accounting and data processing personnel for the corporation.
Lexcraft, Inc. (workers)	Fall River, Mass	do	May 19, 1978	TA-W-3,773	Sleepwear and loungewear.
Kennecott Copper Corp., mines plant (USWA)	Bingham Canyon, Utah	May 22, 1978	do	TA-W-3,774	Mining of copper ore.
Kennecott Copper Corp., concentrator plant(USWA).	Magna, Utah	do	do	TA-W-3,775	Concentrate raw copper ore.
Kennecott Copper Corp., Utah Copper Division, refinery (USWA).	Garfield, Utah	do	do	TA-W-3,776	Refining blister copper into cathodes.
Kennecott Copper Corp., Utah Cooper Division, smelter.	do	do	do	TA-W-3,777	Blister copper.
Lisk Savory Corp. (workers)	Buffalo, N.Y.	May 19, 1978	May 16, 1978	TA-W-3,778	Accounting for both Lisk Savory Corp. and U.S. Stamping Division in Moundsville, W. Va.
Needlecraft Dress Manufacturing Co., Corp. (workers).	Fall River, Mass	May 17, 1978	May 15, 1978	TA-W-3,779	Ladies' better dresses, suits, and gowns.
Northern Ohio Sugar Co. (American Federation of Grain Millers).	Findlay, Ohio	May 24, 1978	May 21, 1978	TA-W-3,780	Receive raw sugar beets and processed them into refined sugar.
Sheller-Globe Corp., Inc.—Hardy Division (Allied Industrial Workers of America).	Union City, Ind	May 22, 1978	May 19, 1978	TA-W-3,781	Zinc dyecasting and plastic molders for decorative hardware.
Tab-A-Long Handbags & Accessories, Inc. (company).	East Haven, Conn	do	May 17, 1978	TA-W-3,782	Handbags.

[FR Doc. 78-15635 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-3464]

DONNER-HANNA COKE CORP., BUFFALO, N.Y.

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-3464: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 4, 1978, in response to a worker petition received on March 20, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing coke and pig iron at the Buffalo, N.Y. plant of the Donner-Hanna Coke Corp.

The notice of investigation was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18360). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Donner-Hanna Coke 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 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 competitve 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.

There were no involuntary separations of production workers from employment at the Buffalo, N.Y. plant of the Donner-Hanna Coke Corp. between February 20, 1977, 1 year prior to the signature date of the petition, and February 1, 1978. During February of 1978, separations did occur at the plant, however, such separations were solely attributable to the coal shortage in the United States. All separated workers have since been reinstated at the Buffalo, N.Y. plant, and there is currently no threat of future separations at the plant.

CONCLUSION

After careful review, I conclude that all workers at the Buffalo, N.Y. plant of the Donner-Hanna Coke 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 May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15894 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2475]

F/V "LEONA LOUISE," PROVINCETOWN, 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-2475: 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 4, 1977, which was filed on behalf of fishermen and former fishermen catching fish for the F/V *Leona Louise*, Provincetown, Mass.

The notice of investigation was published in the FEDERAL REGISTER on November 8, 1977 (42 FR 52810). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the owner of the F/V *Leona Louise*, his 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.

During the 1973 to 1976 period, the average annual level of imports of fresh and frozen groundfish and flatfish: whole; blocks and slabs; and fillets, was 654,706 thousand pounds. Imports in 1977 were 696,261 thousand pounds. Imports as a percentage of production increased from 173.4 percent in 1975, to 197.8 percent in 1976, and declined to 187.8 percent in 1977.

Cod represented the largest percentage of total Provincetown landings in 1977. Imports of fresh and frozen cod increased from 256,962 thousand pounds in 1975 to 331,044 thousand pounds in 1977. Imports as a percentage of production increased from 379.4 percent in 1975, to 446.5 percent in 1976, and increased to 463.9 percent in 1977.

Imports of edible fish products from Canada increased from 438,206 thousand pounds in 1975, to 474,015 thousand pounds in 1976, to 478,470 thousand pounds in 1977.

A survey of fish wholesalers served by the Provincetown area indicated that many had decreased purchases of fish from Provincetown. A number of these wholesalers purchased imported Canadian ground and flatfish either directly or indirectly in 1977.

The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian fish by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian ground and flatfish as leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of ground and flatfish.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with groundfish and flatfish caught by the F/V *Leona Louise*, Provincetown, Mass. contributed importantly to the decline in sales and employment related to the catching of fish aboard that vessel. In accordance with the provisions of the act, I make the following certification:

All workers of the F/V *Leona Louise*, Provincetown, Mass. who became totally or partially separated from employment on or after September 20, 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 May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15898 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2395]

F/V "SHIRLEY" AND "ROLAND," PROVINCETOWN, 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-2395: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescibed in section 222 of the act.

The investigation was initiated on September 23, 1977, in response to a worker petition received on September 23, 1977, which was filed on behalf of workers and former workers engaged in the catching and landing of ground and flatfish aboard the F/V *Shirley* and *Roland* of Provincetown, Mass.

The notice of investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55316). 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/V *Shirley* and *Roland*, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Marine Fisheries Service, 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.

During the 1973 to 1976 period, the average annual level of imports of fresh and frozen groundfish and flatfish: whole; blocks and slabs; and fillets was 654,706 thousand pounds. Imports in 1977 were 696,261 thousand pounds. Imports as a percentage of production increased from 173.4 percent in 1975, to 197.8 percent in 1976, and declined to 187.8 percent in 1977.

Cod represented the largest percentage of total Provincetown landings in 1977. Imports of fresh and frozen cod increased from 256,962 thousand pounds in 1975, to 331,044 thousand pounds in 1977. Imports as a percentage of production increased from 379.4 percent in 1975, to 446.5 percent in 1976, and increased to 463.9 percent in 1977.

Imports of edible fish products from Canada increased from 438,206 thousand pounds in 1975, to 474,015 thousand pounds in 1976, to 478,470 thousand pounds in 1977.

A survey of fish wholesalers served by the Provincetown area indicated that many had decreased purchases of fish from Provincetown. A number of these wholesalers purchased imported Canadian ground and flatfish either directly or indirectly in 1977.

The wholesalers also indicated that decreasing purchases from Provincetown were in large measure due to the increased purchases of fresh and frozen Canadian fish by their customers—fishmarkets, supermarkets, and restaurants. The Department's investigation revealed that many fish distributors and wholesalers use the imports of Canadian ground and flatfish as leverage in bidding down the exvessel prices paid to domestic fishermen for the same species of ground and flatfish.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that increases of imports like or directly competitive with the ground and flatfish caught and landed by the F/V *Shirley* and *Roland* of Provincetown, Mass. contributed importantly to the decrease in sales and production and to the separation of workers from that vessel. In accordance with the provisions of the act, I make the following certification:

All workers of the F/V *Shirley* and *Roland* of Provincetown, Mass. who became totally or partially separated from employment on or after September 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15899 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2255]

GLENEAGLES DIVISION OF HART SCHAFFNER & MARX, CHISHOLM, MINN.

Affirmative Determination Regarding Application for Reconsideration

On May 9, 1978, the petitioner for workers and former workers of the Gleneagles Division of Hart Schaffner & Marx of Chisholm, Minn., requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14762).

The petitioner raises one basic issue. He claims that the Department of Labor was in error in focusing its investigation only on golf jackets which, according to the petitioner, constituted only a small portion of output at the Chisholm factory. The petitioner claims that the Chisholm plant produced outerwear and that the majority of its production was directly affected by imports, particularly the boys' items, quilted nylon jackets and lined car coats.

CONCLUSION

After review of the application, I conclude that the claims of the petitioner are of sufficient importance to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15895 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-3382]

HENRY RICHARDS CO., INC., HAMDEN, CONN.

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-3382: 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 21, 1978, in response to a worker petition received on March 2, 1978, which was filed by the International Leather, Plastics & Novelty Workers Union on behalf of workers and former workers producing ladies' handbags at the Hamden, Conn., plant of the Henry Richards Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on March 28, 1978 (43 FR 12967). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Henry Richards Co., 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. It is concluded that all of the requirements have been met.

U.S. imports of handbags have increased both absolutely and relatively in every year since 1974. The import to domestic production ratio increased from 66.7 percent in 1974 to 119.7 percent in 1977.

Henry Richards Co., Inc., started importing handbags in the second quarter of 1977 and has increased purchases of imports in every quarter since that time. Imported handbags now represent a significant proportion of total company sales. The imported handbags replaced a line of handbags produced domestically by the firm.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' handbags produced at the Henry Richards Co., Inc., have contributed importantly to the decline in sales and production and to the separation of workers at that plant as required for certification under section 222 of the Trade Act of 1974. In accordance with the provisions of the Act, I make the following certification:

All workers of the Henry Richards Co., Inc., Hamden, Conn., who became totally or partially separated from employment on or after February 27, 1977, are certified 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 May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15897 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-3231]

HIBSHMAN SCREW MACHINE PRODUCTS, INC., UNION, MICH.

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 that date which was filed on behalf of workers and former workers producing component parts at Hibshman Screw Machine Products, Inc., Union, Mich.

Notice of the investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10650). No public hearing was requested and none was held.

The petitioner in this case requested withdrawal of the petition on April 3, 1978.

Signed at Washington, D.C., this 25th day of May 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-15896 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2705, 2719]

REPUBLIC STEEL CORP., CLEVELAND DISTRICT, CLEVELAND, OHIO

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-2705, 2719: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigations were initiated on December 5, 1977, in response to

worker petitions received on November 23, 1977, which were filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the strip mill and Cleveland, Ohio, plants in the Cleveland district of the Republic Steel Corp. The investigation revealed that the plant primarily produces hot and cold rolled carbon and alloy sheet and strip, carbon and alloy bars and special sections. The strip mill is part of the Cleveland district's integrated production process.

In a determination signed on June 10, 1977, all workers at the Cleveland district plant were denied eligibility to apply for adjustment assistance (see TA-W-1486).

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 Republic Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron & Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the 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 average number of workers in the Cleveland district increased from 1975 to 1976 and from 1976 to 1977. Employment increased in the last quarter of 1976 and each quarter of 1977 when compared to the respective quarter of the previous year.

No partial separations occurred.

There is no immediate threat of separations at the Cleveland district.

CONCLUSION

After careful review, I conclude that all workers at the Cleveland district plant, Cleveland, Ohio (including the strip mill), of the 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15900 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2707]

REPUBLIC STEEL CORP., CULVERT DIVISION, CANTON DRAINAGE FAIRHOPE PLANT, FAIRHOPE, OHIO

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-2707: 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 Canton Drainage Fairhope plant, Fairhope, Ohio, in the Culvert division of the Republic Steel Corp. The investigation revealed that the plant primarily produces sectional and tunnel liner plate and drainage pipe.

In a determination signed on September 12, 1977, all workers at the Canton Drainage Fairhope plant were denied eligibility to apply for adjustment assistance (see TA-W-1495).

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 Republic Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron & Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. With respect to workers producing sectional plate and tunnel liner plate, 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.

Shipments and production of sectional and tunnel liner plate increased from 1976 to 1977.

With respect to workers producing drainage pipe, 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.

Imports of corrugated drainage pipe are not separately identifiable in the official trade statistics of the United States. If such products did enter the country, they would generally enter under TSUSA No. 610.3265, pipe and tubes, welded, jointed or seamed, over 16 inches in outside diameter. Industry sources state that there are no known imports of corrugated drainage pipe. Product bulkiness and the resulting high freight costs inhibit importation of such products.

CONCLUSION

After careful review, I conclude that all workers at the Canton Drainage Fairhope plant, Fairhope Ohio, in the Culvert division of the 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15901 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2709, 2710]

REPUBLIC STEEL CORP., MAHONING VALLEY DISTRICT, NILES, OHIO, WARREN, OHIO

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-2709, 2710: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigations were initiated on December 5, 1977 in response to worker petitions 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 Niles and Warren, Ohio plants in the Mahoning Valley District of the Republic Steel Corp. The investigation revealed that the Warren plant primarily produces carbon and alloy hot rolled sheet and strip, carbon cold rolled sheet and silicon. The Niles plant is part of Warren's integrated production process.

In a determination signed on July 28, 1977, all workers at the Warren and Niles plants were denied eligibility to apply for adjustment assistance (see TA-W-1489, 1490).

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 Republic Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, Industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the 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 average number of workers at the Warren and Niles plants increased from 1975 to 1976 and from 1976 to 1977.

No partial separations occurred.

There is no immediate threat of separations at the Warren and Niles plants.

CONCLUSION

After careful review, I conclude that all workers at the Warren and Niles, Ohio plants in the Mahoning Valley District of the 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15902 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2711]

REPUBLIC STEEL CORP., CHICAGO DISTRICT, SOUTH CHICAGO, ILL.

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-2711: 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 South Chicago, Ill. plant in the Chicago District of the Republic Steel Corp. The investigation revealed that the plant primarily produces carbon and alloy steel bars and semi-finished products, and carbon and alloy pipe and tubing.

In a determination signed on July 18, 1977, workers in the Chicago District who were engaged in employment related to the production of carbon and alloy steel pipe and tubing were certified as eligible to apply for adjustment assistance. Workers engaged in employment related to the production of bar products were denied eligibility to apply for adjustment assistance (see TA-W-1485). This investigation covers those workers denied previously.

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 Republic Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, Industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act 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.

Shipments and production of carbon and alloy bars (and semi-finished) increased from 1976 to 1977. Shipments also increased from 1975 to 1976.

CONCLUSION

After careful review, I conclude that all workers engaged in employment related to the production of carbon and alloy bars (and semi-finished) at the Chicago District plant, South Chicago, Ill. of the Republic Steel Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers engaged in employment related to the production of pipe and tubing continue to be eligible for adjustment assistance under the existing certification, TA-W-1485.

Signed at Washington, D.C., this 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15903 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2716]

REPUBLIC STEEL CORP., SOUTHERN DISTRICT, THOMAS WORKS, BIRMINGHAM, 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-2716: 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 Birmingham, Ala. plant (Thomas Works) in the Southern District of the Republic Steel Corp. The investigation revealed that the Birmingham plant produces coke.

In a determination signed on July 12, 1976, all workers at the Birmingham plant, who were engaged in employment related to the production of specialty steel were denied eligibility to apply for adjustment assistance (see TA-W-748).

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 Republic Steel Corp., its customers, the U.S. Department of Commerce. the U.S. International Trade Commission, the American Iron and Steel Institute, Industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the 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 Thomas Works produces coke which is primarily shipped to the Southern District's Gulfsteel Works in Gadsden (TA-W-2717). In 1976, coke was also shipped to the Chicago (TA-W-2711) and Cleveland Districts (TA-W-2705, 2719) of Republic Steel. In determinations signed on May 31, 1978, workers at these plants were denied eligibility to apply for adjustment assistance.

Republic Steel does not import any coke.

Since the Department has determined that workers at the Gulfsteel Works and the Chicago and Cleveland Districts have not been adversely affected by imports, workers at the Thomas Works, as part of the integrated production process, cannot be certified as eligible to apply for adjustment assistance.

CONCLUSION

After careful review, I conclude that all workers at the Thomas Works, Birmingham, Ala. in the Southern District of the 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15904 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2712]

REPUBLIC STEEL CORP., STEEL AND TUBES DIVISION, ELYRIA, OHIO

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-2712: 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 Elyria, Ohio plant in the Steel and Tubes Division of the Republic Steel Corp. The investigation revealed that the plant primarily produces welded carbon steel pipe and tubing.

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 Republic Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, Industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the 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 average number of workers at the Elyria plant increased from 1976 to 1977. Employment increased in the last quarter of 1976 and in each quarter of 1977 when compared to the respective quarter of the previous year.

No partial separations occurred.

There is no immediate threat of separations at the Elyria plant. Production and shipments increased from 1975 to 1976 and from 1976 to 1977.

CONCLUSION

After careful review, I conclude that all workers at the Elyria, Ohio plant in Steel and Tubes Division of the 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15905 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2717]

REPUBLIC STEEL CORP., SOUTHERN DISTRICT GULFSTEEL WORKS, GADSDEN, 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-2717: 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 Gadsden, Ala. plant in the Southern District of the Republic Steel Corp. The investigation revealed that the Gadsden plant (Gulfsteel Works) primarily produces carbon and alloy plates, hot and cold rolled sheet and galvanized products.

In a determination signed on June 21, 1977, all workers at the Gadsden plant were denied eligibility to apply for adjustment assistance (see TA-W-1487). In a determination signed on June 17, 1976 all workers at the Gadsden plant, who were engaged in employment related to the production of specialty steel were denied eligibility to apply for adjustment assistance (see TA-W-751).

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 Republic Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, Industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the 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 average number of workers increased in the last quarter of 1976 compared to the last quarter of 1975 and from 1976 to 1977.

No partial separations occurred.

There is no immediate threat of separations to the workers att he Gulfsteel Works.

CONCLUSION

After careful review, I conclude that all workers at the Gulfsteel Works, Gadsden, Ala. in the Southern District of the 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15906 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2593]

REPUBLIC STEEL CORP., BUFFALO DISTRICT, BUFFALO, N.Y.

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-2593: 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 10, 1977 in response to a worker petition received on November 3, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the Buffalo, N.Y. in the Buffalo District of the Republic Steel Corp. The investigation revealed that the plant primarily produces carbon and alloy steel bars.

In a determination signed on June 10, 1977, all workers in the Buffalo District were denied eligibility to apply for adjustment assistance (see TA-W-1484).

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 Republic Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, Industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the 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 average number of workers increased in the last quarter of 1976 compared to the last quarter of 1975. There were no significant employment declines from 1976 to 1977.

No partial separations occurred.

There is no immediate threat of separations to workers at the Buffalo District plant.

CONCLUSION

After careful review, I conclude that all workers in the Buffalo District plant, Buffalo, N.Y. of the 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15907 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2722]

REPUBLIC STEEL CORP. DOOR DIVISION, NILES DOOR PLANT, NILES, OHIO

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-2722: 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 Niles door plant, Niles, Ohio, in the door division of the Republic Steel Corp. The investigation revealed that the plant primarily produces doors, frames, and sticks.

In a determination signed on September 12, 1977, all workers at the Niles door plant were denied eligibility to apply for adjustment assistance (see TA-W-1495).

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 Republic Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act 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.

Shipments and production of doors, frames, and sticks increased from 1975 to 1976 and from 1976 to 1977.

The average number of production workers also increased from 1976 to 1977.

CONCLUSION

After careful review, I conclude that all workers at the Niles door plant, Niles, Ohio, in the door division of the 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15908 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2721]

REPUBLIC STEEL CORP., INDUSTRIAL PRODUCTS DIVISION, CANTON INDUSTRIAL PLANT, CANTON, OHIO

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-2721: 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 Canton Industrial Plant, Canton, Ohio in the industrial products division, of the Republic Steel Corp. The investigation revealed that the plant primarily produces lockers and shelving and does some contract manufacturing.

In a determination signed on September 12, 1977, all workers at the Canton Industrial Plant were denied eligibility to apply for adjustment assistance (see TA-W-1494).

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 Republic Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the 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 average number of workers at the Canton Industrial Plant was stable

from 1975 to 1976 and increased from 1976 to 1977. Employment increased in the last quarter of 1976 and in each quarter of 1977 when compared to the respective quarter of the previous year.

No partial separations occurred.

There is no immediate threat of separations at the Canton Industrial Plant. Production and shipments increased from 1976 to 1977.

CONCLUSION

After careful review, I conclude that all workers at the Canton Industrial Plant, Canton, Ohio (Industrial Products Division) of the 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15909 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2604]

THE RIVER TERMINAL RAILWAY CO., CLEVELAND, OHIO

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-2604: 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 14, 1977, in response to a worker petition received on November 2, 1977, which was filed on behalf of workers and former workers providing railroad services at the River Terminal Railway Co., a wholly owned subsidiary of Republic Steel Corp., Cleveland, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from The River Terminal Railway Co., Republic Steel Corp., and Department files.

In order to make an affirmative determination and issue a certification of 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 railroad is a wholly owned subsidiary of Republic Steel Corp.

The River Terminal Railway Co. is part of Republic Steel's Cleveland district production process. Workers at the railroad provide transportation services to the Cleveland plants.

In a determination signed on May 31, 1978, all workers in the Cleveland district were denied eligibility to apply for adjustment assistance (See TA-W-2705, 2719).

Since the Department has determined that workers at the Cleveland district have not been adversely affected by imports, workers at the railroad, as part of the integrated production process, cannot be certified as eligibile to apply for adjustment assistance.

CONCLUSION

After careful review, I conclude that all workers at The River Terminal Railway Co., Cleveland, Ohio, are denied eligibility ot apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15910 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-3372]

SEA-LAND SERVICE, INC., FORT LAUDERDALE, FLA.

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-3372: 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 20, 1978, in response to a worker petition received on February 28, 1978, which was filed on behalf of workers formerly engaged in transport operations at Sea-Land Service, Inc., Fort Lauderdale, Fla.

The Notice of Investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sea-Land Service, 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.

The Department's investigation revealed that Sea-Land Service, Inc. is a common carrier of containerized ocean going cargo.

The Fort Lauderdale, Fla., facility was a trucking terminal which provided transport services to and from the corresponding port facilities of Sea-Land. Each trucking terminal of Sea-Land was located near a port facility. Workers at the firm are engaged in transport operations and perform no production functions.

CONCLUSION

After careful review, I conclude that workers at the Fort Lauderdale, Fla., facility of Sea-Land Service, 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 31st day of May 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-15911 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2991]

UNIVERSAL BALL BEARING CORP., STONE PARK, ILL.

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-2991: 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 12, 1978, which was filed on behalf of workers and former workers producing ball and roller bearings at Universal Ball Bearing Corp., Stone Park, Ill. During the course of the investigation it was established that workers at Universal Ball Bearing Corp. are engaged only in sales and warehousing operations and do not produce an article.

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 Universal Ball Bearing 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. 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 Universal Ball Bearing Corp. was an independent corporation engaged in the warehousing and sale of ball and roller bearings. Workers employed at Universal Ball Bearing Corp. were engaged solely in sales and warehousing functions and performed no production operations.

Workers at Universal Ball Bearing Corp. 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 only question in this case is whether any suppliers or customers of Universal Ball Bearing Corp., 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).

Universal Ball Bearing Corp. is not financially, corporately, or otherwise involved in the business of any of its suppliers, or with its customer. The workers on whose behalf this petition was filed were hired and are paid by and subject to the control of Universal Ball Bearing Corporation personnel only. All employment benefits are provided and maintained by Universal Ball Bearing. Thus, Universal Ball Bearing must be considered the workers' firm.

CONCLUSION

After careful review I determine that workers at Universal Ball Bearing Corp., Stone Park, Ill., 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 May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-15912 Filed 6-8-78; 8:45 am]

[4510-28]

[TA-W-2993]

WESTERN BEARINGS CORP. STONE PARK, ILL.

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-2993: 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 12, 1978 which was filed on behalf of workers and former workers producing ball and roller bearings at Western Bearings Corp. During the course of the investigation it was determined that workers at Western Bearings Corp. are engaged only in the sale and warehousing of ball and roller bearings.

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 Western Bearings 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. 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 "worker' firms".

The Department's investigation has revealed that Western Bearings Corp. was an independent corporation engaged in the sale of ball and roller bearings. Workers employed by Western were engaged solely in sales functions and performed no production operations.

Workers at Western Bearings Corp., do not produce an article within the meaning of Section 223(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 only question in this case is whether any suppliers or customers of Western Bearings Corp. 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).

Western Bearings Corp., is not financially, corporately, or otherwise involved in the business of its supplier or its customers. The workers on whose behalf this petition was filed were hired and paid by and subject to the control of Western Bearings personnel only. All employment benefits are provided and maintained by Western Bearings. Thus, Western Bearings Corp. must be considered the workers' firm.

CONCLUSION

After careful review I determine that workers at Western Bearings Corp., Stone Park, Ill. 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 May 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-15913 Filed 6-8-78; 8:45 am]

[4510-27]

PRIVACY ACT OF 1974

Systems of Records, Additions and Revision

Pursuant to 5 U.S.C. 552(e)(11), sections of the Privacy Act of 1974, the Department of Labor hereby publishes notices of systems of records DOL/ESA-23 to be established by the Employment Standards Administration, Office of Workers' Compensation Programs, and DOL/ESA-24 which is being separated from DOL/ESA-15 which is herein revised and republished, both of which are systems of records of the Employment Standards Administration, Office of Workers' Compensation Programs. DOL/ESA-23 will be an investigatory record maintained by the Employment Standards Administration, Office of Workers' Compensation Programs, Division of Investigation. This system is exempted under 5 U.S.C. 552a (j)(2) and (k)(2) of the Act. DOL/ESA-24 is being separated from DOL/ESA-15, Office of Workers' Compensation Programs, Longshoremen's and Harbor Workers' Compensation Act File. DOL/ESA-24 is maintained by the Office of Workers' Compensation, Division of Longshore and Harbor Workers' Compensation, while the records in DOL/ESA-15 are found primarily in Office of Workers' Compensation Programs District Offices.

Signed at Washington, D.C., this 5th day of June 1978.

RAY MARSHALL,
Secretary of Labor.

DOL/ESA-15

Systems name:

Office of Workers' Compensation Programs, Longshoremen's and Harbor Workers' Compensation Act Case Files.

System location:

Most files are located in District Offices but cases involving special issues may be in the National Office.

Categories of individuals covered by the system:

The system maintains records of injury, occupational disease and death of employees working in private industry who are covered by the provisions of the Longshoremen's and Harbor Workers' Compensation Act and related acts.

Categories of records in the system:

Records include: reports of injury by employees and employers, authorization for medical care; medical reports; medical and transportation bills; formal orders for or against payment of compensation; vocational evaluations, rehabilitation plans and awards and vocational progress reports; vital statistics such as birth, marriage, death certificates; enrollment and attendance records at educational institutions.

Authority for maintenance of the system:

33 U.S.C. 901 et. seq. (20 CFR 701 et. seq.) 36 U.S.C. 501 et. seq., 42 U.S.C. 1951 et. seq., 43 U.S.C. 1331 et. seq., 5 U.S.C. 8171 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such items:

Disclosure to the employer at the time of the injury or the onset of the occupational illness and to any party providing the employer with workers' compensation insurance coverage; doctors and medical service providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services; public or private agencies to whom the injured worker has been referred for vocational rehabilitation services; contractors providing automated data processing services for the Department of Labor; and labor unions and other voluntary associations of which the claimant is a member acting on behalf of the individual member.

Storage:

The information is maintained as written records and documents in letter size manual files stored in 4 and 5 drawer file cabinets, located in the several District Offices.

Notification procedure:

Contact System Manager.

Record access procedure:

Any individual seeking information about a case in which he/she is a party of interest may write or telephone the OWCP District Office and arrangement will be made to provide review of the file, consonant with restrictions defined as a Routine Use.

Contesting record procedures:

Contact Systems Manager.

Record source categories:

The system obtains information from injured employees, their qualified dependents, employers, insurance carriers, physicians, medical facilities, educational institutions, attorneys, State and federal vocational rehabilitation agencies and Members of Congress.

DOL/ESA-23

System name:

Office of Workers' Compensation Programs Investigation Files.

System location:

U.S. Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs (OWCP), Divison of Investigation, Washington, D.C. 20210, and ESA Regional Offices.

Categories of individuals covered by the system:

Individuals filing claims for workers' compensation benefits under (1) the Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101 et. seq.) [except 8149 as it pertains to the Employees' Compensation Appeals Board] (2) the Longshoremen's and Harbor Workers' Compensation Act as amended and extended (33 U.S.C. 901 et. seq.) [except 33 U.S.C. 921(b) as it applies to the Benefits Review Board] and (3) Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, 30 U.S.C. 901 et. seq.; individuals providing medical and other services to OWCP; employees of insurance companies and of medical and other services providers to OWCP; and other persons suspected of violations of law under the above Acts and related civil and criminal provisions as well as respondents, witnesses and other individuals involved in investigations and enforcement actions instituted by the Department of Labor.

Categories of records in the system:

The system contains information gathered by OWCP in connection with investigations by it into possible violations of Federal law, whether civil or criminal including (1) the Federal Employees' Compensation Act and related Acts, (2) the Longshoremen's and Harbor Workers' Compensation Act and related Acts, and (3) Title IV, Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, 30 U.S.C. 901 et. seq. Such information may be derived from materials filed with the Department of Labor, other Federal, State and local departments and agencies, court records, medical records, insurance records, records of employers, articles from publications, published financial data, corporate information, bank information, telephone data, statements of witnesses, information received from Federal, State, local and foreign regulatory and law enforcement organizations, and from other sources. This record also contains the work product of the Department of Labor, and other government personnel and consultants involved in the investigations.

Authority for maintenance of the system:

5 U.S.C. 8101 et. seq. 20 CFR 1.1, et. seq.; 33 U.S.C. 901 et. seq., 20 CFR 701 et. seq.; 36 U.S.C. 501 et. seq.; 42 U.S.C. 1951 et. seq.; 43 U.S.C. 1331 et. seq.; 5 U.S.C. 8171 et. seq.; 30 U.S.C. 901 et. seq.; 20 CFR 715 et. seq.; 20 CFR 720.1 et. seq.; 20 CFR 725.1 et. seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Records are made available to other Federal agencies and state and local agencies conducting similar or related investigations and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor. Records may also be disclosed in any proceeding where the Federal Employees' Compensation Act and related Acts, Longshoremen's and Harbor Workers' Compensation Act and related Acts, Title IV Section 415 and Part C, of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972 is in issue or in which the Secretary of Labor, any past or present Federal employee or consultant directly or indirectly involved in investigations or other enforcement activities under the above Acts, is a party or otherwise involved in an official capacity.

Retrievability:

Records are indexed by name.

Safeguards:

Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal:

To be determined.

System manager and address:

Associate Director, Division of Investigation, Office of Workers' Compensation Programs, 200 Constitution Avenue NW., Washington, D.C. 20210.

Notification procedure:

Contact Systems Manager.

Record access procedure:

Contact Systems Manager.

Contesting record procedures:

Contact Systems Manager.

Record source categories:

Record from OWCP claim and payment files (DOL/ESA-6, 7, 8, 11, 13, 15 and 24) and from employees, insurers, service providers and parties interviewed during the course of an investigation.

Systems exempted from certain provisions of the Act:

(a) Criminal law enforcement. In accordance with paragraph 3(j)(2) of the Privacy Act, information maintained in investigation files in the Division of Investigation of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from all provisions contained in 5 U.S.C. 552a except those requirements set forth in paragraphs (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10) and (11) and paragraph (i) of the Act. The disclosure of information contained in the criminal investigative files, including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the Division's investigations. Knowledge of such investigations could enable subjects to take such action as is necessary to prevent detection of criminal activities, conceal evidence, or to escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their respective families, and could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would impede significantly the effectiveness of the Division's investigatory activities, and in addition, may often preclude the apprehension and successful prosecutiuon of persons engaged in fraud of the Federal workers' compensation programs. (b) Other law enforcement. In accordance with paragraph 3(k)(2) of the Privacy Act, investigatory material compiled for law enforcement purposes other than material declared exempt under paragraph 3(j)(2) of the Act, which is maintained in investigation files of the Division of Investigation of the Office of Workers' Compensation Programs of the Employment Standards Administration is exempt from paragraphs (c)(3), (d), (e)(4), (G), (H), and (I), and paragraph (f) of 5 U.S.C. 552a. The disclosure of information contained in civil investigative files, including the names of persons and agencies to whom the information has been transmitted, would substantially compromise the effectiveness of the Division's investigations. Knowledge of such investigations would enable subjects to take such action as is necessary to prevent detection of illegal activities, conceal evidence, or otherwise escape civil enforcement action. Disclosure of this information could lead to the intimidation of, or harm to informants, witnesses, and their respective families, and, in addition, could jeopardize the safety and well-being of investigative personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, and retained would also impede significantly the effectiveness of the Division's investigatory activities.

DOL/ESA-24

System name:

Office of Workers' Compensation Programs, Longshoremen's and Harbor Workers' Compensation Act Special Fund System.

System location:

Division of Longshore and Harbor Workers' Compensation, Room C4315, 200 Constitution Avenue NW., Washington, D.C. 20210.

Categories of individuals covered by the system:

Persons receiving compensation and related benefits under the Longshoremen's and Harbor Workers' Compensation Act.

Categories of records in the system:

Bills, vouchers, and records of payment for compensation and related benefits under the Longshoremen's and Harbor Workers' Compensation Act.

Authority for maintenance of the system:

33 U.S.C. 901 et seq. (20 CFR 701 et seq.), 36 U.S.C. 501 et seq., 42 U.S.C. 1951 et seq., 43 U.S.C. 1331 et seq., 5 U.S.C. 8171 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such items:

Disclosure of payment information to insurance carriers or self-insurers under the Longshoremen's and Harbor Workers' Compensation Act in instances of verification of payment.

Storage:

The information is maintained as written records and documents in letter size manual files stored in 4 and 5 drawer cabinets.

Retrievability:

By name of payee.

Safeguards:

Files are locked at night and maintained during working hours under the constant supervision of OWCP personnel.

Retention and disposal:

To be determined.

System manager:

Associate Director, OWCP, Division of Longshore and Harbor Workers' Compensation, U.S. Department of Labor, 200 Constitution Avenue NW., Room C4315, Washington, D.C. 20210.

Notification procedure:

Contact System Manager.

Record access procedure:

Contact System Manager.

Contesting record procedures:

Contact System Manager.

Record source categories:

Insurers and self-insurers under the Longshoremen's and Harbor Workers' Compensation Act and parties providing covered benefits and service to approved claimants under the Act.

[FR Doc. 78-16152 Filed 6-8-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-19]

GRISWOLD CO.

Intent to Grant Exclusive Patent License

Notice is hereby given that consideration is being given to the grant to The Griswold Co., Old Lyme, Conn., of a limited, exclusive, revocable license to practice the invention described in U.S. Patent No. 3,943,763 for "Magnetic Heading Reference", issued on March 16, 1976, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a

limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.2, as revised April 1, 1972. NASA will negotiate the final terms and conditions and grant the exclusive license unless, on or before July 10, 1978, the Chairperson, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: June 2, 1978.

GERALD J. MOSSINGHOFF,
Acting General Counsel.

[FR Doc. 78-16024 Filed 6-8-78; 8:45 am]

[7510-01]

[Notice 78-20]

LICENSING MANAGEMENT CORP.

Intent to Grant Exclusive Patent License

Notice is hereby given that consideration is being given to the grant to the Licensing Management Corp., New York, N.Y., of a limited, exclusive, revocable license to practice the invention described in U.S. Patent No. 3,692,533 for "Modification of the Physical Properties of Freeze-Dried Rice", issued on September 19, 1972, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR § 1245.2, as revised April 1, 1972. NASA will negotiate the final terms and conditions and grant the exclusive license unless, on or before July 10, 1978, the Chairperson, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; of (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that he has already brought or is likely to bring the invention to practical application with a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: June 5, 1978.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc. 78-16025 Filed 6-8-78; 8:45 am]

[7532-01]

NATIONAL COMMISSION ON NEIGHBORHOODS

URBAN PRESERVATION WITHOUT DISPLACEMENT

Meeting

ACTION: Notice of meeting.

SUMMARY: This notice, required under the Federal Advisory Committee Act (5 U.S.C. Appendix I), announces a public meeting.

TIME AND DATE: Friday, June 23; 7:30—9:30 p.m.

PLACE: Langston Hughes Cultural Arts Center, 17 South Yesler Way, Seattle, Wash.

AGENDA: Panel discussion: "Urban Preservation Without Displacement."

STATUS: Open to the public.

CONTACT PERSON:

Ms. Frances Phipps, Deputy Director. Telephone No. 202-632-5200.

JONATHAN STEIN,
Administrative Officer.

[FR Doc. 78-16159 Filed 6-8-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

FEDERAL-STATE PARTNERSHIP ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal-State Partnership Advisory Panel to the National Council on the Arts will be held June 27, 1978, from 9:30 a.m. to 5 p.m., and June 28, 1978, from 9:30 a.m. to 4 p.m., at Southern Oregon State College in Ashland, Oreg.; and June 29, 1978, from 9 a.m. to 4:30 p.m., at the U.S. Hotel, in Jacksonville, Oreg.

This meeting will be open to the public on a space available basis. The topic for discussion will be guidelines and policy. On June 29, 1978, from 2 to 4 p.m., there will be a briefing of the Oregon Arts Commission.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

Dated: June 2, 1978.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-16014 Filed 6-8-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-315]

INDIANA & MICHIGAN ELECTRIC CO. AND INDIANA & MICHIGAN POWER CO.

Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission), has issued Amendment No. 25 to Facility Operating License No. DPR-58, issued to Indiana & Michigan Electric Co. and Indiana & Michigan Power Co. (the licensees), which revised the license and Technical Specifications for operation of the Donald C. Cook Nuclear Plant, Unit No. 1 (the facility), located in Berrien County, Mich. The amendment is effective as of its date of issuance.

The amendment involves technical specification changes to (1) extended heat flux hot channel factor limits to greater fuel burnup values based on modified calculation techniques. The bases for the new calculational techniques are contained in Exxon Nuclear Co. Document XN-NP-76-51, WREM-Based Generic PWR ECCS Evaluation Model ENC-WREM-II, supplements 1 through 4, which the Commission finds acceptable. The amendment also (2) formally incorporates into the license heat flux hot channel factors for Westinghouse fuel as permitted by the Commission's exemption issued on May 18, 1978, and (3) corrects an inadvertent error in the technical specifications related to fire protection.

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 Proposed Issuance of Amendment to Facility Operating License in connection with item (1) above was published in the FEDERAL

REGISTER on February 24, 1978 (43 FR 7748). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action on that portion of the amendment. Prior public notice of the amendment with respect to items (2) and (3) above, was not required since those portions of the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any signficant 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 (1) the application for amendment dated February 3, 1978, as supplemented by letter dated April 17, 1978, (2) Amendment No. 25 to License No. DPR-58, (3) the Commission's related safety evaluation, and (4) the Commission's exemption dated May 18, 1978. 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 Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Mich. 49085. A single 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 30th day of May 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-15952 Filed 6-8-78; 8:45 am]

[7590-01]

[Docket Nos. 50-443; 50-444]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL., SEABROOK STATION, UNITS 1 AND 2

Prehearing Conference

To begin preparing for the evidentiary hearings on the matters remanded in ALAB-471 decided by the Atomic Safety and Licensing Appeal Board on April 28, 1978, and in accordance with the Commission's Order of May 31, 1978, the Atomic Safety and Licensing Board will conduct a prehearing conference on June 28, 1978 [1] beginning at 10 a.m. at:

Superior Courtroom, 2nd Floor, Hillsborough County Courthouse, 19 Temple Street, Nashua, N.H. 03060.

The Board will consider and hear arguments concerning:

1. The specification, simplification and clarification of the remanded issues concerning which the Commission has not granted review.

2. The setting of a schedule for further procedures, including discovery and hearing, considering the fact that certain issues are still before the Commission on review.

3. The possibility of stipulations, admissions and agreements.

4. Any other matter which may aid in the orderly disposition of the remanded issues.

By order of the Board.

Dated at Bethesda, Md., this 1st day of June, 1978.

For the Atomic Safety and Licensing Board.

IVAN W. SMITH,
Chairman.

[FR Doc. 78-15953 Filed 6-8-78; 8:45 am]

[1] This date has been selected to permit the parties to meet their briefing responsibilities before the Commission and to prepare for the prehearing conference.

[7590-01]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR-54, issued to Sacramento Municipal Utility District, which revised the license for operation of the Rancho Seco Nuclear Generating Station, located in Sacramento County, Calif. The amendment is effective as of its date of issuance.

This amendment grants an exemption from the Commission's regulations which extends the effective date by which the licensee shall conform to the provisions of 10 CFR 50.55a(g)(4) from August 18, 1978, to October 18, 1979. In addition, the amendment adds a license condition for the performance of supplementary inservice tests and inspections.

The application 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. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

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 (1) the licensee's submittal dated February 27, 1978, (2) Amendment No. 20 to License No. DPR-54, (3) the Commission's related Safety Evaluation and (4) the Commission's letter to the licensee dated May 30, 1978. 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 Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, Calif. A copy of items (2) through (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 30th day of May 1978.

For the Nuclear Regulatory Commission.

JOE W. REECE,
Acting Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-15954 Filed 6-8-78; 8:45 am]

[7590-01]

[Docket Nos. 50-390 and 50-391]

TENNESSEE VALLEY AUTHORITY

Availability of Draft Environmental Statement for Watts Bar Nuclear Plant, Unit Nos. 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0352) prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Watts Bar Nuclear Plant, Unit Nos. 1 and 2, in Rhea County, Tenn., is available for inspection by the public in the Commission's public document room at 1717 H Street NW., Washington, D.C., and in the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tenn. The draft statement is also being made available at the State planning office, grants review section, 660 Capitol Hill Building, Nashville, Tenn., and at the Southeast Tennessee development district, 423 James Building, 731 Broad Street, Chattanooga, Tenn. Requests for single copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Com-

mission, Washington, D.C., Attention: Director, Division of Document Control.

The Tennessee Valley Authority submitted an update of the TVA Environmental Statement (November 9, 1972) (ES), construction permit stage which was independently reviewed by the Atomic Energy Commission (now the Nuclear Regulatory Commission) as part of the construction permit licensing process. The updated environmental report of November 18, 1976, entitled "Environmental Information," was submitted pursuant to 10 CFR Part 51, and is available for public inspection at the above-designated locations. The TVA Environmental Information, Supplement No. 1, "Responses To NRC Questions for Operating License Stage Environmental Review," Watts Bar Nuclear Plant, Unit Nos. 1 and 2, is also available for public inspection at the above-designated locations.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by July 17, 1978. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tenn. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 1st day of June 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-15955 Filed 6-8-78; 8:45 am]

[7590-01]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR-43 issued to Wisconsin Public Service Corp., Wisconsin Power and Light Co., and Madison Gas and Electric Co. (the licensee) which revised Technical Specifications for operation of the Kewaunee Nuclear Power Plant located in Kewaunee, Wis. The amendment is effective as the date of issuance.

The amendment incorporates changes to the Appendix A technical specifications to support operation in cycle 4. The technical specification limiting control rod insertion during power operation is changed to maintain the shutdown margin required near end of cycle 4 operation.

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. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

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 (1) the application for amendment dated March 17, 1978, as supplemented by letters dated April 10, and May 12, 1978, (2) Amendment No. 21 to Facility Operating License No. DPR-43, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wis. 54216. A copy of items (2) and (3) 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, Maryland, this 25th day of May 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-15957 Filed 6-8-78; 8:45 am]

[7590-01]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment revises the Appendix A technical specifications by adding surveillance requirements for emergency core cooling system high pressure safety injection throttle valves and by reducing the maximum allowable rate for pressurizer heatup from 200°F/hour to 100°F/hour.

The applications for the amendment comply 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. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

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 (1) the applications for amendment dated November 14, 1977 (Proposed Change No. 156) and March 16, 1978 (Proposed Change No. 159), (2) Amendment No. — to License No. DPR-3, and (3) the Commission's related Safety Evaluation. 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 Greenfield Public Library, 422 Main Street, Greenfield, Mass. 01581. A copy of

items (2) and (3) 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, Maryland, this 23rd day of May, 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief Operating Reactors Branch No. 2,
Division of Operation Reactors.

[FR Doc. 78-15956 Filed 6-8-78; 8:45 am]

[6820-36]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

OPEN MEETING

In accordance with Subsection 10(a) of the Federal Advisory Committee Act, Public Law 92-463, the National Transportation Policy Study Commission announces the following meeting:

Name: Meeting of the Commission.
Date: June 29, 1978.
Time: 9 a.m. to 1 p.m.
Place: 2167 Rayburn House Office Building, 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: Progress Report; Special Studies; Future Scenarios; and Policy Generation.

Dated: June 5, 1978.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc. 78-16037 Filed 6-8-78; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

PRESIDENTIAL DETERMINATION UNDER SECTION 301(a)

Soviet Marine Insurance Practices

Pursuant to section 301(a) of the Trade Act of 1974 (19 U.S.C. 2411), the President has determined that practices of the Union of Soviet Socialist Republics (U.S.S.R.) with respect to Marine Insurance on bilateral (U.S.-U.S.S.R.) cargoes constitute an unreasonable burden and restriction on U.S. commerce.

This determination was reached after considering the results of a review conducted by the Special Representative for Trade Negotiations (STR), as required by regulations of the Office of the STR, in response to a complaint filed by the American Institute of Marine Underwriters (AIMU) on November 10, 1977, and published in the FEDERAL REGISTER on January 26, 1978. A public hearing on the complaint was held on March 7, 1978, and an interagency committee chaired by my office thoroughly reviewed the allegations and information received as a result of that hearing. In their petition, the AIMU complained that the U.S.S.R. requires virtually all insurance on U.S.-U.S.S.R. bilateral trade to be placed with Ingosstrakh, the Soviet state insurance monopoly, thus excluding U.S. marine cargo underwriters from participation in that commercial activity. (See FEDERAL REGISTER, Jan. 26, 1978, pg. 3635.) In addition, the Soviets have applied a higher rate to cover insurance of U.S. flag vessels in the U.S.-U.S.S.R. grain trade than would have been charged by U.S. insurers.

The President has directed me to establish an interagency committee to study possible ways to achieve the elimination of these practices and to make recommendations on possible further actions under section 301. As required by section 301(e), should the President determine to take any action under section 301(a), that determination will be published in the FEDERAL REGISTER and an opportunity for a public hearing will be provided.

I am hopeful that there will be further discussions with the government of the U.S.S.R. in the near future which will lead to a successful resolution of this dispute and thereby avoid any further actions under section 301.

ROBERT S. STRAUSS,
Special Representative for Trade Negotiations.

[FR Doc. 78-16144 Filed 6-8-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14828; SR-CBOE-78-9 and 10]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Extending Comment Period on Proposed Rule Changes

JUNE 5, 1978.

On April 4, 1978, the Chicago Board Options Exchange, Inc., LaSalle at Jackson, Chicago, Ill., filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of two proposed rule changes which, together, would implement a system for the appointment of board brokers pursuant to a competitive bidding procedure.

Notice of the proposed rule changes together with the terms of substance of the proposed rule changes was given by publication of Commission Releases (Securities Exchange Act Release Nos. 34-14688 and 14687, April 20, 1978) and by publication in the FEDERAL REGISTER (43 FR 18373-74, April 28, 1978). The original period for the submission by interested persons of written data, views, and arguments concerning the submissions extended until May 19, 1978, and that period was further extended by order of the Commission until May 31, 1978 (Securities Exchange Act Release No. 14807 (May 26, 1978)). Pursuant to the request of the Board Brokers Association of the CBOE, the Commission hereby extends the period for the submission of written data, views and arguments concerning the foregoing proposals until June 8, 1978.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-16012 Filed 6-8-78; 8:45 am]

[8010-01]

[Release No. 34-14821; File No. SR-NYSE-78-30]

NEW YORK STOCK EXCHANGE, INC.

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. 94-29, 16 (June 4, 1975), notice is hereby given that on May 24, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE AND BASIS AND PURPOSE OF THE PROPOSED RULE CHANGE

The proposed changes would allow employees to be members in their member organizations, provided they are given titles and the member organization is fully responsible for all transactions executed on the Floor. Corporations would also be permitted to be general partners in member firms.

These amendements will eliminate disparities between member partnerships and member corporations which now exist in the Exchange Constitution and Rules.

In March 1977, the Exchange filed a Form 19b-4A (File No. SR-NYSE-77-13) which would end required stock

ownership for members in member corporations. However, members in partnerships would still be required to be general partners of such partnerships. The amendments proposed in the current filing would allow a member, either as an employee or as a partner, to qualify a firm as a member organization.

The current amendments also would allow corporations to be general partners in member firms. Natural person general partners would continue to be members or allied members; corporate general partners would be approved persons.

Article IX, section 10, would be amended to require that a member and the general partners or directors of his member organization must designate an alternate to take the member's place if he is selected as as Exchange Director or officer on one of the Exchange's affiliated companies. A new section 3 has been added to Article XII to require documentation from a member orgainization evidencing (a) authority of any member who is an officer or employee to transact business on the Floor on behalf of such organization and (b) such organization's responsibility and obligation with respect to contracts entered into on the Floor by such a member.

The stem of Rule 314, requiring every member and allied member to have a fixed interest in the entire business of his member orgnization, would be rescinded to reflect that an employee-member might not have any interest in the organization. Rule 314.14 would be amened to require all floor commissions earned by any member to be for the organization's account, while allowing for flexibility of commission arrangements between the member and his organization.

The proposed amendments enhance the ability of any registered broker or dealer to become a member organization of the Exchange, in accordance with section 6(b)(2) of the Act, by expanding the categories of individuals eligible to qualify member organizations for membership, The proposal to allow Corporations to be general partners in member firms furthers the ability of any person to become associated with a member in accordance with section 6(b)(2) of the Act.

The proposed amendments would (A) serve to prevent fraudulent and manipulative acts and practices, (B) promote just and equitable principles of trade, (C) remove impediments to a free and open market and (D) protect investors and the public interest, in accordance with section 6(b)(5), by equalizing member partnership requirements with member corporation requirements and by requiring member organizations to be fully responsible for the transactions of their members on the Floor of the Exchange.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED AMENDMENTS

Comments were neither solicited nor received.

BURDEN ON COMPETITION

Any burden on competition is eliminated because of the equalizing effect this proposal has on member partnerships and member corporations.

On or before July 14, 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 all 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 on or before June 30, 1978.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 31, 1978.

[FR Doc. 78-16011 Filed 6-8-78; 8:45 am]

[4710-09]

DEPARTMENT OF STATE

[Public Notice 612; Delegation of Authority No. 140-2]

AMENDMENT TO DELEGATION OF AUTHORITY NO. 140

By virtue of the authority vested in me as Secretary of State, including section 4 of the Act of May 26, 1949, as amended (22 U.S.C. 2658), State Department Delegation of Authority No. 140 of March 23, 1978 (43 FR 13456-13457), is hereby amended by striking out the word "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting a comma in lieu thereof, and by adding after paragraph (4) the following new paragraph:

"(5) Those delegated by paragraphs (a), (b) and (c) of section 2 of Executive Order 12058 of May 11, 1978, *Provided*, That the negotiation and conclusion of international agreements shall remain subject to the Department of State's Circular 175 Procedure."

Dated: June 5, 1978.

CYRUS R. VANCE,
Secretary of State.

[FR Doc. 78-16183 Filed 6-8-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

MINORITY BUSINESS RESOURCE CENTER ADVISORY COMMITTEE

Meeting

Pursuant to section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463); 5 U.S.C. App. I) notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held June 30, 1978, at 10 a.m. until 5 p.m. at the Department of Transportation, 400 7th Street SW., Rooms 4436 and 4438, Washington, D.C. 20590. The agenda for the meeting is as follows:

MBRC PROGRAM AND GOALS

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than 1 day before the meeting. Information pertaining to the meeting may be obtained from Mr. Kenneth E. Bolton, Executive Director, Federal Railroad Administration, 400 7th Street SW., Washington, D.C. 20590, telephone: 202-426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on June 5, 1978.

KENNETH E. BOLTON,
Executive Director.

[FR Doc. 78-16009 Filed 6-8-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. IP78-7; Notice 1]

GENERAL MOTORS CORP.

Receipt of Petition for Determination of Inconsequential Noncompliance

General Motors Corp. of Warren, Mich., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.301-75, Motor Vehicle Safety Standard No. 301-75, *Fuel System Integrity*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

On May 4, 1978, NHTSA informed GM, pursuant to section 152(a) of the Act, that it had made an initial determination that the 1977 Chevette failed to conform to fuel system integrity requirements, and that it had scheduled a public proceeding on this matter to be held on June 6, since rescheduled to June 16 (43 FR 20292, 43 FR 23780). Within 30 days of its receipt of notice GM filed a petition for inconsequentiality under the provision of 49 CFR 556.4(c).

NHTSA's initial determination affects the entire 1977 model run of approximately of 136,000 vehicles. GM stated the problem accurately in its petition: "It is our understanding that the NHTSA concern is possible fuel spillage which might occur as a result of contact of the Chevette pan hard rod retainer with the fuel tank during the 30 mph rear moving barrier test prescribed by the standard." GM's petition criticizes NHTSA's test results and introduces its own results as evidence of compliance with the standard. It argues that the difference in NHTSA test velocity and the 30 mph requirement of the standard is so small "that it is within a margin of test error when appropriate limitations are considered for the capability of the velocity measuring equipment." It further argues that all the valid compliance tests run by either side in the controversy show compliance. GM has reviewed field accidents data files and has found no record of any fires involving 1977 Chevettes to date which it believes demonstrates that the alleged noncompliance does not present an unreasonable risk to motor vehicle safety.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corporation described above or to make oral presentations at the hearing scheduled for June 16, 1978, in room 6332, at 10:00 a.m., Department of Transportation, 400 Seventh Street SW., Washington, D.C. Written comments should refer to the docket number and be submitted: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Because the arguments advanced by GM in support of its petition are essentially the same as arguments made to the agency during the investigation, which are contained in the file that has been publicly available since the initial determination of noncompliance published on May 11, 1978, the comment closing date on this petition is: June 30, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations to authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on June 7, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-16176 Filed 6-7-78; 3:41 pm]

[4810-25]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[General Counsel Order No. 1 (Revised)]

ORGANIZATION AND FUNCTIONS OF THE LEGAL DIVISION

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 1009 and 26 U.S.C. 7801, by Department Circulars 519 of June 30, 1934, and 595 of September 13, 1938, and by Treasury Department Order No. 190 (Revised), I hereby define and prescribe the organization and functions of the Legal Division of the Treasury Department.

1. The Legal Division consists of a consolidated legal staff headed by the General Counsel, who is by statute the chief law officer of the Department of the Treasury, and is composed of all attorneys providing legal service in all offices and bureaus of the Treasury Department and all support personnel assigned to them. The legal staff provides legal advice to the Secretary of the Treasury and to the officers, offices and bureaus of the Department in accordance with the designations made by this Order. The General Counsel operates principally through a Deputy General Counsel, the Assistant General Counsels, the Chief Counsels, and the Legal Counsels listed herein, to whom delegations of specific authority are made by Legal Division Orders.

2. The General Counsel provides legal advice to the Secretary of the Treasury, the Deputy Secretary, the Under Secretaries, and the Assistant Secretaries on any legal matter which may arise within the Department. He supervises the Legal Division and establishes the policies, procedures, and standards governing its functioning.

3. The Deputy General Counsel is an Assistant General Counsel designated to serve as deputy and act as General Counsel in the absence of the General Counsel. The Deputy General Counsel reviews work prepared for the General Counsel and supervises the day-to-day operation of the Legal Division. He receives on behalf of the General Counsel reports from the Assistant General Counsels and Chief Counsels, excepting the Assistant General Counsel who is the Chief Counsel of the Internal Revenue Service and the Assistant General Counsel—Tax Legislative Counsel who report directly to the General Counsel.

4. The Assistant General Counsel—Chief Counsel, Internal Revenue Service, is the legal adviser to the Commissioner of the Internal Revenue Service and supervises and directs the legal staff advising the Internal Revenue Service. He reports directly to the General Counsel.

5. The Assistant General Counsel—Tax Legislative Counsel is the legal adviser to the Assistant Secretary (Tax Policy) and provides advise concerning tax legislation, tax policy, and tax treaties. He reports directly to the General Counsel.

6. The Assistant General Counsel (International Affairs) provides legal advice to the Under Secretary (Monetary Affairs), the Assistant Secretary (International Affairs), the Assistant Secretary (Economic Policy), the Commissioner of Customs (on tariff affairs), the Deputy Assistant Secretary (Tariff Affairs), and the Special Assistant to the Secretary (National Security). He supervises the Senior Counsel (Developing Nations Finance) and the Senior Counsel (International Trade and Tariff Affairs). He reports to the General Counsel through the Deputy General Counsel.

7. The Assistant General Counsel (Administration, Legislation and Fiscal Operations) provides legal advice to the Assistant Secretary (Administration), the Fiscal Assistant Sec-

retary, the Assistant Secretary (Legislative Affairs), the Assistant Secretary (Domestic Finance), and to the Office of the Secretary generally with respect to administrative procedure and Department administration. He also serves as legal adviser to the Treasurer of the United States, the Assistant Secretary (Public Affairs), and to the U.S. Savings Bonds Division. He is in charge of the nontax legislative activities of the Department. He supervises the Chief Counsel, Bureau of the Public Debt, the Chief Counsel, Office of Revenue Sharing, and the legal functions of the Director, Office of the Director of Practice. He reports to the General Counsel through the Deputy General Counsel.

8. The Assistant General Counsel (Enforcement and Operations) provides legal advice to the Assistant Secretary (Enforcement and Operations). He acts for the General Counsel in the supervision of all nontax litigation matters and tax litigation matters which arise out of the activities of the Bureau of Alcohol, Tobacco and Firearms requiring General Counsel action. He supervises the Senior Counsel (Enforcement and Operations), the Chief Counsel, U.S. Customs Service, the Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms, the Chief Counsel of the Office of Foreign Assets Control, the Legal Counsel, Bureau of the Mint, the Legal Counsel, U.S. Secret Service, the Legal Counsel, Federal Law Enforcement Training Center, and the Legal Counsel, Bureau of Engraving and Printing. He reports to the General Counsel through the Deputy General Counsel.

9. The Counselor to the General Counsel assists the General Counsel and the Deputy General Counsel by undertaking special assignments pertaining to any area of responsibility in the Office of the General Counsel. He reports to the General Counsel through the Deputy General Counsel.

10. The Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, is the chief law officer for that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

11. The Chief Counsel, Office of the Comptroller of the Currency, is the chief law officer for that office and reports to the General Counsel through the Deputy General Counsel.

12. The Chief Counsel, United States Customs Service, is the chief law officer for that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

13. The Chief Counsel, Foreign Assets Control, is the chief law officer for that office and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

14. The Chief Counsel, Bureau of the Public Debt, is the chief law officer for that Bureau, and reports to the General Counsel through the Assistant General Counsel (Administration, Legislation and Fiscal Operations) and the Deputy General Counsel.

15. The Chief Counsel, Office of Revenue Sharing, is the chief law officer for that Office, and reports to the General Counsel through the Assistant General Counsel (Administration, Legislation and Fiscal Operations) and the Deputy General Counsel.

16. The Legal Counsel, Bureau of the Mint, provides legal advice to that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

17. The Legal Counsel, United States Secret Service, provides legal advice to that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

18. The Legal Counsel, Federal Law Enforcement Training Center, provides legal advice to that Center and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

19. The Legal Counsel, Bureau of Engraving and Printing, provides legal advice to that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

20. The Director of Practice (1) directs the legal functions performed in his office and reports with respect to those functions to the General Counsel through the Assistant General Counsel (Administration, Legislation and Fiscal Operations) and the Deputy General Counsel; (2) makes operating decisions in carrying out the responsibilities placed on him under 31 U.S.C. 1026 and by 31 CFR Part 10 under the administrative supervision of the General Counsel exercised by the General Counsel or the Deputy General Counsel; and (3) serves as Executive Director of the Joint Board of Actuaries pursuant to Part 901, Chapter VIII of Title 20, CFR.

A change in title of any official in the Office of the Secretary shall not affect the foregoing assignments unless the change includes a change of function. The General Counsel may, without formal Order, reassign on a temporary basis a function of an Assistant General Counsel or the Counselor.

Dated: June 2, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-15993 Filed 6-8-78; 8:45 am]

[4810-25]

[T.D. Order No. 191-3 (Revised)]

Order of Succession of Officials Authorized to Act as Assistant Secretary of the Treasury (Enforcement and Operations)

By virtue of the authority vested in me as Assistant Secretary (Enforcement and Operations), the following officials, in the order of succession shown herein, are hereby authorized and directed to act as Assistant Secretary (Enforcement and Operations) and to perform all the functions of that office during the absence or disability of the Assistant Secretary or when there is a vacancy in that office:

1. Deputy Assistant Secretary (Enforcement).
2. Deputy Assistant Secretary (Operations).

Treasury Department Order No. 191-3 (Revised) dated August 24, 1976 is hereby revoked.

Dated: June 1, 1978.

RICHARD J. DAVIS,
Assistant Secretary (Enforcement and Operations).

[FR Doc. 78-16019 Filed 6-8-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWNCES

Meeting

Notice is hereby given pursuant to section V, review procedure and hearing rules, Station Committee on Educational Allowances that on June 30, 1978, at 10:30 a.m., the Waco regional office Station Committee on Educational Allowances shall at room B-12-02, 1400 N. Valley Mills Drive Waco, Tex. 76710, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in the Associated Plumbing, Heating and Cooling Contractors of Dallas County, Inc., apprenticeship program should be discontinued as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: June 1, 1978.

JACK COKER,
Director, VA Regional Office, 1400 N. Valley Mills Drive, Waco, Tex. 76710.

[FR Doc. 78-15983 Filed 6-8-78; 8:45 am]

[8320-01]

STATION COMMITTEE ON EDUCATIONAL ALLOWANCE

Meeting

Notice is hereby given pursuant to section V, review procedure and hearing rules, Station Committee on Educational Allowances that on July 11, 1978, at 10 a.m., the Veterans Administration regional office, Columbia, S.C., Station Committee on Educational Allowances shall at room 531, conference room, fifth floor, VA regional office, 1801 Assembly Street, Columbia, S.C., conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Southeastern Business College, 560 King Street, Charleston, S.C., 29403, should be discontinued as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: June 2, 1978.

R. STEADMAN SLOAN, Jr.,
Director, VA Regional Office, 1801 Assembly Street, Columbia, S.C. 29201.

[FR Doc. 78-15984 Filed 6-8-78; 8:45 am]

[8320-01]

PRIVACY ACT OF 1974

Systems of Records; Adoption of Routine Use

On page 15026 of the FEDERAL REGISTER of April 10, 1978, there was published a notice that the Veterans Administration was proposing adding a new routine use statement to three systems of records entitled: 49VA21 Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA; 50VA22 Veterans, Dependents, Beneficiaries, and Armed Forces Personnel Education and Rehabilitation Records—VA; 58VA21/22 TARGET—Compensation, Pension, Education, and Rehabilitation Records—VA.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed routine use statement. No comments were received. Accordingly, the proposed routine use statement is adopted without change.

Effective date: The routine use statement is effective the date of final approval by the Administrator of Veterans Affairs, June 5, 1978.

Approved: June 5, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 78-16164 Filed 6-8-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION OFFICE OF HEARINGS

[Notice No. 680]

ASSIGNMENT OF HEARINGS

JUNE 6, 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.

CORRECTION

No. MC 110683 (Sub-No. 122), Smith's Transfer Corp., now assigned June 27, 1978, at Indianapolis, Ind., is canceled and transfered to modified procedure instead of canceled and dismissed.

H. G. HOMME, Jr.
Acting Secretary

[FR Doc. 78-16045 Filed 6-8-78; 8:45 am]

[7035-01]

[Notice No. 681]

ASSIGNMENT OF HEARINGS

JUNE 6, 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.

CORRECTION*

No. FF 209 (Sub-No. 3), Lyons Transport, Inc., is now assigned for hearing July 19, 1978 (3 days), at Chicago, Ill., at a location to be later designated.

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

[FR Doc. 78-16046 Filed 6-8-78; 8:45 am]

[7035-01]

[Notice No. 679]

ASSIGNMENT OF HEARINGS

JUNE 6, 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.

AB 102 Sub-No. 6, Missouri-Kansas-Texas Railroad Co., abandonment near Parsons and Coffeyville in Labette and Montgomery Counties, Kans., is assigned for hearing June 26, 1978, at Coffeyville, Kans., and will be held at Room 104 Occupational Building, Coffeyville Community College.

No. MC 123405 (Sub-No. 55), Food Transport, Inc., is now assigned for hearing July 20, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 143445 (Sub-No. 2), MMAR Transportation, Inc., is now assigned for hearing July 26, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 60014 (Sub-No. 68), Aero Trucking, Inc., is now assigned for hearing July 26, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. AB 7 (Sub-No. 49), Chicago, Milwaukee, St. Paul and Pacific Railroad Co., abandonment near Monroe and Mineral Point, in Greene, Lafayette, and Iowa Counties, Wis., now assigned July 17, 1978, at Darlington, Wis., is postponed to July 24, 1978 (5 days), for hearing on the application, at Darlington, Wis., at a location to be later designated; and is also assigned July 20, 1978 (2 days), for hearing on the environmental impact statement only, at Darlington, Wis., at a location to be later designated.

No. AB 1 (Sub-No. 41), Chicago and North Western Transportation Co., abandonment between Klevenville and Fennimore, including Lancaster Junction to Lancaster, Monfort Junction to Cuba City, and Ipswich to Platteville, in Dane, Iowa, Lafayette, and Grant Counties, Wis., is now assigned for continued hearing July 19,

*This corrects the docket number, for which the Sub-No. was mistakenly omitted in the publication of June 2, 1978, page 24158.

1978 (3 days), at Darlington, Wis., at a location to be later designated. The last 2 days of this hearing are set aside for cross-examination with regard to the environmental impact statement only.

No. AB 43 (Sub-No. 28), Illinois Central Gulf Railroad Co., abandonment between Freeport, Ill., and Madison, Wis., is now assigned for continued hearing July 20, 1978 (2 days), in regard to the environmental impact statement only, at Darlington, Wis., at a location to be later designated.

No. 36768, B & P Motor Express, Inc., Shenango Steel Co., a corporation—Investigation of practices, now assigned June 12, 1978, at Philadelphia, Pa., is postponed indefinitely.

No. MC 44914 (Sub-No. 3), Willamette Valley Transfer Co., is now assigned for hearing July 10, 1978 (10 days), at Portland, Oreg., at a location to be later designated.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-16047 Filed 6-8-78; 8:45 am]

[7035-01]

[Finance Docket No. 28762]

SOUTHERN RAILWAY CO. AND BURLINGTON NORTHERN, INC.

Coordination Project—In Centralia, Marion County, Ill.

Southern Railway Co., 920 15th Street NW., P.O. Box 1808, Washington, D.C. 20013, and Burlington Northern, Inc., 176 East Fifth Street, St. Paul, Ramsey, Minn 55101, represented by Nancy S. Fleischman, Solicitor, Southern Railway Co., P.O. Box 1808, Washington, D.C. 20013 and Richard J. Schreiber, Associate Regional Counsel, Burlington Northern, Inc., 547 West Jackson Boulevard, Chicago, Ill. 60606, hereby give notice that on the 15th day of May 1978, as supplemented May 31, 1978, they filed with the Interstate Commerce Commission at Washington, D.C. an application under section 5(2) of the Interstate Commerce Act for an order seeking approval and authorization of a coordination of facilities at Centralia, Marion County, Ill. BN owns and maintains but does not operate over a spur track approximately 1,775 feet (0.34 mile) in length, between milepost 66.52 and milepost 66.20 in Centralia. Southern operates over the segment as a necessary part of its main line between Louisville and East St. Louis, including the Southern/BN run-through train from Louisville to Galesburg, Ill. Part of the segment involves an 11 degree curve with jointed rail, which at normal operating speeds creates rocking and danger of derailment.

Southern proposes to acquire the 0.34 mile segment, replace jointed with welded rail, and maintain the segment at its normal main line standard. Southern proposes no change in its current operation. BN does not now operate over the segment but will retain the right to operate jointly with Southern to serve any industries which might locate in the vicinity.

The coordination will allow BN to eliminate excess facilities and will permit Southern to improve the efficiency and safety of its operation. No effect on employees of either Southern or BN or on direct service to the public will result.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28762, and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date of Notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to participate formally in a proceeding but who may desire to comment thereon, may file such statements and information as they may desire subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon Southern and BN, the Secretary of Transportation, and the Attorney General.

H. G. HOMME, Jr.
Acting Secretary

[FR Doc. 78-16049 Filed 6-8-78; 8:45 am]

[7035-01]

[Notice No. 90]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 5, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 11207 (Sub-No. 429TA), filed April 20, 1978. Applicant: DEATON, INC., P.O. Box 938, 317 Avenue West, Birmingham, AL 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between Newport, KY and Wilder, KY on the one hand and, on the other, points in AL, AR, and GA (points on and west of Hwy Interstate 75), LA, MS, and TN (points on and west of Hwy I-75), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Interlake, Inc., 9th and Lowell Streets, Newport, KY 41018. Send protests to: Mabel E. Holston, Transportation Assistant,

Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 13569 (Sub-No. 37TA), filed April 20, 1978. Applicant: THE LAKE SHORE MOTOR FREIGHT CO., INC., 1200 South State Street, Girard, OH 44420. Applicant's representative: John P. Tynan, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsites of the Republic Steel Corp., located at Canton, Cleveland, Massillon, and Warren, OH, to points in the State of IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Republic Steel Corp., P.O. Box 6778, Cleveland, OH 44101. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 14215 (Sub-No. 14TA), filed April 24, 1978. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Applicant's representative: John L. Alden, Stiverson & Alden, 1396 West Fifth Avenue, Columbus, OH 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemical process residue* in bulk, dry, from Moundsville, WV to Hagerstown, MD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sergeant Oil & Gas Co., Inc., 3813 Buffal Speedway, P.O. Box 812, Houston, TX 77001. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, WV 26003.

No. MC 25798 (Sub-No. 318TA), filed April 27, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, 502 E. Bridgers Avenue, Auburndale, FL 33823. Applicant's representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of Rich Products Corp. at Murfreesboro, TN, to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, OK, SC, TX, and WI, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW., 53rd Terrace, Miami, FL 33166.

No. MC 48956 (Sub-No. 15TA), filed April 26, 1978. Applicant: JAMES FLEMING TRUCKING, INC., 661 East Street, Suffield, CT 06078. Applicant's representative: S. Michael Richards, Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned baby food and dry cereal*, from Canajoharie, NY, to all points in CT, MA, and RI, under a continuing contract or contracts with Beech-Nut Foods Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Beech-Nut Foods Corp., Church Street, Canajoharie, NY 13317. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Room 324, Hartford, CT 06101.

No. MC 51146 (Sub-No. 496TA), filed April 20, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, WI 54306. Applicant's representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures and fittings and related equipment*, from Evansville and Rockport, IN, to Minneapolis, St. Paul, and Montevideo, MN; and Wausau, Madison, and Middleton, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Peerless Pottery, Inc., P.O. Box 6165, Evansville, IN 47712. (Ralph Foster.) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 55896 (Sub-No. 76TA), filed April 28, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in that portion of OH on and south of U.S. 30 and on and west of U.S. 23 and New Concord, OH, on the one hand, and, on the other, Chicago, IL, restricted to traffic having a prior or subsequent movement by rail or by freight forwarder in trailer on flat car service moving in semitrailers or containers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (7) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 61977 (Sub-No. 7TA), filed April 25, 1978. Applicant: ZERKLE TRUCKING CO., 34 Race Street, Middleport, OH 45760. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, caps, covers and container accessories*, from the facilities of Kerr Glass Manufacturing Corp., at Huntington, WV, to Cincinnati, Leipsic, Medina, Orrville, and Urbana, OH, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Larry W. Wilson, Assistant General Traffic Manager, Kerr Glass Manufacturing Corp., Box 97, Sand Springs, OK 74063. Send protests to: Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 105566 (Sub-No. 168TA), filed April 20, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, 6901 Old Keene Mill Road, Suite 406, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles and/or containers*, from Joliet, IL, and Parkersburg, WV, to Fresno and Union City, CA, for 180 days. Applicant does not intend to tack the authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Bottle Manufacturing Co., P.O. Box 568, Parkersburg, WV 26101. Send protests to: P. E. Binder, Acting District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 106679 (Sub-No. 14TA), filed April 28, 1978. Applicant: WHEELER FREIGHTWAYS, 3375 South Polaris

Avenue, Las Vegas, NV 89102. Applicant's representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meat and meat products and refrigerated food items* for human consumption in insulated equipment, equipped with mechanical refrigeration, and commodities which are exempt from regulation when such commodities are moving in the same vehicles with meat and food products, between points in Los Angeles and San Diego Counties, CA, and Maricopa County, AZ, on the one hand, and Clark County, NV, on the other hand, for 180 days. Supporting shipper(s): There are approximately (7) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: W. J. Heutig, District Supervisor, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 111956 (Sub-No. 44TA), filed April 28, 1978. Applicant: SUWAK TRUCKING CO., 1105 Fayette Street, Washington, PA 15301. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers*, from Washington, PA, to Covington and Louisville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Metropak Containers Corp., 1099 Wall Street West, Lyndhurst, NJ 07071. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, WV 26003.

No. MC 112617 (Sub-No. 391TA), filed April 20, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules* (in bulk, in tank vehicles), from Terre Haute, IN, to points in IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): James Doti, President, Jadcore, Inc., 1415 North Fruitridge Avenue, Terre Haute, IN 47805. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 11696 (Sub-No. 58TA), filed April 21, 1978. Applicant: HARTMANS, INC., P.O. Box 898, 833 Chicago Avenue, Harrisonburg, VA 22801. Applicant's representative: Edward C. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen doughnuts*, from North East, PA, to Buffalo, NY, Winchester, VA, and Murfreesboro, TN, for 180 days. Supporting shipper(s): Rich Products Corp., Buffalo, NY 14213. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

No. MC 113271 (Sub-No. 46TA), filed April 24, 1978. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59401. Applicant's representative: Ray K. Koby, 314 Montana Building, Great Falls, MT 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid* (in bulk, in tank vehicles), from Anaconda, MT, to points in ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kurt E. Mecham, President, M & M Crop Service, Inc., d.b.a. Sulae Co., Star Route, Box 190, Potcatello, ID 83201. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

No. MC 113670 (Sub-No. 12TA), filed April 24, 1978. Applicant: PETCO INC., INTERSTATE, 7627 Dahlia Street, P.O. Box 447, Commerce City, CO 80022. Applicant's representative: Richard J. Bara, 50 South Steel Street, Suite 330, Denver, CO 80209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas* (in bulk, in tank vehicles), between points in Grand County, UT, on the one hand, and, on the other, points in CO west of the Continental Divide, for 180 days. Supporting shipper(s): Arrow Gas Co., Security National Bank Building, Suite 700, Roswell, NM. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 114301 (Sub-No. 95TA), filed April 18, 1978. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, MD 21921. Applicant's representative: Maxwell A. Howell, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials*, dry, in bulk, from Leominster, MA, to points in DE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Richard L. Roundhouse, Distribution Manager, Borden Chemical, Division of Borden, Inc., 180 East Broad Street, Columbus, OH 43215. Send protests to: W. L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 114457 (Sub-No. 383TA), filed April 19, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mops, brooms, brushes*, from Greenville, NC, to Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Empire Brushes, Inc., 200 William Street, Port Chester, NY 10573. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and United States Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 114457 (Sub-No. 385TA), filed April 27, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel doors, steel door frames, and brass, bronze, copper and steel hardware*, from Milan, TN, and commercial zone to points in DE, MD, NJ, NY, OH, PA, VA and WV, and DC, for 180 days. Supporting shipper(s): Ceco Corp., 5601 West 26th Street, Chicago, IL 60650. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and United States Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 114457 (Sub-No. 386TA), filed April 27, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty plastic containers in corrugated cartons*, from Burlington, WI, to Kansas City, KS, and Jersey City, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Continental Group, Inc., 1 Landmark Square, Stamford, CT 06901. Send protests to: Delores A. Poe, Transportation Assist-

ant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and United States Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 114457 (Sub-No. 387TA), filed April 27, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Chicago, IL, to points in KY, for 180 days. Supporting shipper(s): Castle and Cook Foods, 50 California Street, San Francisco, CA 94111. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 117568 (Sub-No. 16TA), filed April 17, 1978. Applicant: KEMPT TRUCK LINE, INC., P.O. Box 156, Verona, MO 65769. Applicant's representative: William B. Barker, 641 Harrison Street, Topeka, KS. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating and air conditioning equipment*, from the plantsite and storage facilities of Southwest Manufacturing Division at or near Aurora, MO, to AL, AR, CO, GA, IL, IN, IO, KS, KY, LA, MD, MI, MN (except Minneapolis), MS, NE, NJ, NM, NY, and NC (except High Point), ND, OH, OK, PA, SC, SD, TN, TX, VA, and WV, and WI (except La-Crosse), under a continuing contract, or contracts, with Southwest Manufacturing Division of Aurora, MO, for 180 days. Supporting shipper(s): Southwest Manufacturing Division, 10 North Elliott, Aurora, MO 65605. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 117686 (Sub-No. 211TA), filed April 28, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), from the facilities of Rich Products Corp. at or near Murfreesboro, TN, to points in IL, IN, IA, KS, KY, MN, MO, TN, and WI, for 180 days. Supporting shipper(s): Nelson Goodrich, corporate traffic manager, Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 117940 (Sub-No. 266TA), filed March 28, 1978, and published in the FEDERAL REGISTER issue of May 9, 1978, and republished as corrected this issue. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Applicant's representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk) from the facilities of Continental Freezers of Illinois at Chicago, IL to points in IN, KY, MI and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): continental Freezers of Illinois, 4220 South Kildare Boulevard, Chicago, IL 60632. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Post Office, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to indicate origin point.

No. MC 117940 (Sub-No. 267TA), filed March 28, 1978, and published in the FEDERAL REGISTER issue of May 9, 1978, and republished as corrected this issue. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Applicant's representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and potato products* from the facilities of Ore-Ida Foods, Inc., at Greenville, MI to points in CT, DE, MD, MA, NH, NJ, NY, PA, VT, VA, WV and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to indicate origin point.

No. MC 119654 (Sub-No. 42TA), filed April 28, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, or chain grocery stores, from Fostoria, OH, to points in MI on and south of State Hwy 46, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fostoria Distribution, P.O. Box D, Fostoria, OH 44830. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstat Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 123157 (Sub-No. 41TA), filed April 21, 1978. Applicant: CTI, P.O. Box 397, 11115 North Casa Grande Hwy, Rillito, AZ 85246. Applicant's representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, AZ 85014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime* (in bulk), from Hurley, NM, to the Phelps Dodge Mine at Marenci, AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Can-Am Corp., Paul Lime Division, P.O. Drawer T, Douglas, AZ 85607. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 124069 (Sub-No. 15TA), filed April 28, 1978. Applicant: CONCRETE DELIVERY CO., INC., 7 North Steelawanna Avenue, Lackawanna, NY 14218. Applicant's representative: William J. Hirsch, 43 Court Street, Suite 1125, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, in pneumatic tank trailers, from Rochester, NY, to Davisville, RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Halliburton Services, a division of Halliburton Co., P.O. Box 1431, Duncan, OK 73533. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 126539 (Sub-No. 37TA), filed April 24, 1978. Applicant: KATUIN BROS. INC., P.O. Box 311, Fort Madison, IA 52627. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pelletized agricultural limestone and gypsum*, from Marion County, IA, to points in IL, KA, MN, MO, NE, ND, SD, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Pelletizing Corp., P.O. Box 3628, Des Moines, IA 50322. Send protests to: Herbert W. Allen, District Supervisor, Bureau of

Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 128375 (Sub-No. 156TA), filed April 28, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Erie and Lock Haven, PA, and Oswego, NY, and their commercial zones to TN, under a continuing contract, or contracts, with Hammermill Paper Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Leroy Wediner, Traffic Manager, Hammermill Paper Co., Erie, PA 16512. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 133565 (Sub-No. 13TA), filed April 28, 1978. Applicant: TRUE TRANSPORT, INC., 293 Wilson Avenue, Box 829, Newark, NJ 07101. Applicant's representative: Leamon McCoy, True Transport Inc., 15 Stockton Street, Newark, NJ 07105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc*, in bags, in containers or trailers having a subsequent movement by water, from Windsor, VT, to piers or wharves and railroad yards in the New York commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johnson & Johnson International, 501 George Street, New Brunswick, NJ. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Buerau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

No. MC 138882 (Sub-No. 66TA), filed April 20, 1978. Applicant: WILEY SANDERS, INC., P.O. Drawer 707, Troy, AL 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), from the facilities of Vlasic Foods, Inc., located at Bridgeport, Imlay City, and Memphis, MI, to the facilities of Vlasic Foods, Inc., located at Greenville, MS; and (2) from the facilities of Vlasic Foods, Inc., located at Greenville, MS, to points in AL, AR, CO, FL, GA, KS, KY, LA, MO, NM, OK, TN, TX, IL, and IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vlasic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48033. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 139066 (Sub-No. 4TA), filed April 27, 1978. Applicant: VAN BUS DELIVERY CO. doing business as United Van Bus Delivery, 2601 32nd Avenue South, Minneapolis, MN 55406. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*, as are dealt in by mail order houses and retail stores and in connection therewith, such equipment, material, and supplies as are used in the conduct of such business, between Minneapolis, MN, on the one hand, and, on the other Ironwood, Calumet, Houghton, Ontonagon and L'Anse, MI, under a continuing contract, or contracts, with Sears, Roebuck & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sears, Roebuck & Co., P.O. Box 5208, Chicago, IL 60680. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 139482 (Sub-No. 52TA), filed March 22, 1978, and published in the FEDERAL REGISTER issue of May 16, 1978, and republished as corrected this issue. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 347, County Road No. 29 West, New Ulm, MN 56073. Applicant's representative: James F. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Part 1. *Redwood furniture, redwood furniture components, and parts and accessories* intended for use therewith, between North Sioux City, SD; Fremont, OH; and Eureka, CA; on the one hand, and, on the other, points in the United States (except AK and HI). Part 2. *Materials, equipment, and supplies* used in the manufacture and assembly of redwood furniture and redwood furniture and redwood furniture components, from: (a) Eureka, CA (redwood furniture framing components) to North Sioux City, SD, and Fremont, OH; (b) from Troy, MI (hardware—nuts, bolts, etc.), to Fremont, OH; North Sioux City, SD, and Eureka, CA; (c) from Los Angeles, CA (steel springs, straps, and rivets), to North Sioux City, SD, and Fremont, OH; (d) from Spring City, TN (furniture cushions), to North Sioux City, SD; Fremont, OH, and Eureka, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Humboldt County Seats, Inc., 221 West 78th Street, Minneapolis, MN 55420. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to add (b), (c), and (d), Part 2, to the territorial description, which was previously omitted.

No. MC 140024 (Sub-No. 107TA), filed April 28, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, CO 80022. Applicant's representative: John DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery* (except bulk), from Philadelphia, PA, to Chicago, IL; Detroit, MI; Cleveland, OH; Denver, CO; Dallas and Houston, TX; and Los Angeles and Hayward, CA, and points in their commercial zones, for 180 days. Supporting shipper(s): Ward-Johnston Inc., 2 Pennsylvania Plaza, New York, NY 10001. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 140389 (Sub-No. 30TA), filed April 20, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Applicant's representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. Authority to sought to operate as a *common carrier*, motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and equipment, materials, and supplies used in the conduct of such business (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of the Kroger Co., at or near Cincinnati and Columbus, OH, to Atlanta, GA; Nashville, TN; and Los Angeles, CA, and points in the commercial zone of each, for 180 days. Supporting shipper(s): The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 140635 (Sub-No. 11TA), filed April 6, 1978. Applicant: ADAMS LINES, INC., P.O. Box 415, 601 32nd Avenue, Council Bluffs, IA 51501. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority to sought to

operate as a *common carrier,* motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles* distributed by meat packinghouses as described in sections A and C of appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Thies Packing Co., Inc., at or near Great Bend, KS, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC, for 180 days. Restricted to traffic originating at the named facilities at or near the named origin and destined to the named destination States, except traffic moving in foreign commerce. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Don Dennis, General Manager, Thies Packing Co., Inc., P.O. Box 49, Great Bend, KS 67530. Send protests to: Carroll Russell, interstate Commerce Commission, Suite 620 110 North 14th Street, Omaha, NE 68102.

No. MC 141417 (Sub-No. 2TA), filed March 28, 1978, and published in the FEDERAL REGISTER issue of May 9, 1978, and republished as corrected this issue. Applicant: SUPER SPEED DELIVERY & MESSENGER SERVICE, INC., 265 Route 46, Totowa, NJ 07512. Applicant's representative: Morton E. Kiel, 5 World Trade Center New York, NY 10048. Authority to sought to operate as a *common carrier,* motor vehicle, over irregular routes, transporting: *Textiles and textile picture kits,* from Lynchburg, VA; Madison Heights, VA; Pawtucket, RI; Taylorsville, Statesville, Greenville, Aberdeen, Spindale, and Williamston, NC; Greenville, Lugoff, Simpsonville, Wateree, Kingstree and Williamston, SC; to Newburgh, NY; East Rutherford, Haldeon, Oxford, Passaic, and Paterson, NJ; Derby, CT; Fall River and New Bedford, MA; and Pawtucket, RI; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): Erlanger, Blumgar & Co., Inc., 1450 Broadway, New York, NY 10018. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102. The purpose of this republication is to show the amended authority.

No. MC 141770 (Sub-No. 1TA), filed April 25, 1978. Applicant: T.P.C. TRANSPORTATION CO., 41 Cleveland Road East, Huron, OH 44839. Applicant's representative: Lewis R. Jones, 5495 River Road, Cincinnati, OH 45233. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer compounds* (in bulk, in dump vehicles), from the plant site of Agrico Chemical Co. at Melbourne, KY, to points in IL, IN, KY, MI, OH, VA, and WV, restricted to the transportation of traffic originating at the above-mentioned plantsite, under a continuing contract, or contracts, with Agrico Chemical Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Agrico Chemical Co., P.O. Box 3166, Tulsa, OK 74101. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 142777 (Sub-No. 2TA), filed April 6, 1978. Applicant: BLACKHAWK EXPRESS, INC., P.O. Box 277, Wall Lake, IA 51466. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles* distributed by meat packinghouses, as described in sections A, B, and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Estherville and Sioux City, IA, and Sioux Falls, SD, to points in AL, AR, CT, DE, DC, FL, GA, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, and WV, for 180 days. Restriction: Restricted to traffic originating at the plantsites and facilities of John Morrell & Co., located at the above origins and destined to the named destination States. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Curt Y. Hopkins, Manager of Transportation, John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 143910 (Sub-No. 3TA), filed April 26, 1978. Applicant: NEW HAMPSHIRE CONTINENTAL EXPRESS, INC., P.O. Box 4956, Manchester, NH 03108. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Drugs and toilet articles and materials and supplies* used in the manufacture, sale and distribution thereof, between Allegan, MI, and points in its commercial zone, on the one hand, and, on the other, points in CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, NH, MN, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and the DC, under a continuing contract, or contracts, with L. Perrigo Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L. Perrigo Co., 117 Water Street, Allegan, MI 49010 (Attention: Roland Pellegrini, Vice President and General Manager). Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Louden Road, Concord, NH 03301.

No. MC 144420 TA, filed March 7, 1978, published in the FEDERAL REGISTER of April 3, 1978, and republished as corrected in this issue. Applicant: MALIBU BEACH BOAT SALES & SERVICE CO., INC., Route 1, Box 261, Osage Beach, MO 65065. Applicant's representative: Harry F. Horak, 5001 Brentwood Stair Road, Room 109, Fort Worth, TX 76112. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Boats,* not to exceed 45 feet in length or 13 feet 6 inches wide, in vehicles equipped with boat support equipment, between points in MO, on the one hand, and, on the other, points in AR, FL, IL, IA, KS, KY, MI, MS, OK, TN, and TX, for 180 days. Supporting shipper(s): There are approximately 11 statements of support which may be reviewed at the field office named below. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106. The purpose of this republication is to correct the number of supporting shippers.

No. MC 144653 (Sub-No. 1TA), filed April 25, 1978. Applicant: A. & D. HITCHCOCK TRUCKING, INC., 2990 Grammer Road, Webberville, MI 48892. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Scrap aluminum,* from Howell, MI, to Maple Heights, OH, for 180 days. Supporting shipper(s): Aluminum Smelting & Refining Co., Inc., 5463 Dunham Road, Maple Heights, OH 44137. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 144700TA, filed April 27, 1978. Applicant: CONTINENTAL CARRIERS, INC., P.O. Box 6238, Pompano Beach, FL 33050. Applicant's representative: Miles L. Kavaller, 315 South Beverly Drive, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier,* by motor vehicle,

over irregular routes, transporting: (1) *Yarn, wool and synthetic fiber yarn,*and (2) *textile machinery, parts, and supplies* used in the manufacture of those commodities, from Beaulaville, Warsaw, Wahington, and Whiteville, NC, and Cheraw, SC, to Long Beach, CA, and Arlington, TX, under a continuing contract, or contracts, with National Spinning Co., Inc., for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): National Spinning Co., Inc., P.O. Box 191, Washington, NC 27889. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest, 53rd Terrace, Miami, FL 33166.

No. MC 144702TA, filed April 27, 1978. Applicant: ASHEVILLE-NEW YORK MOTOR EXPESS, INC., 1 Bridal Path, Asheville, NC 28804. Applicant's representative: Eric Meierhoefer, 1511 K Street NW., Suite 423, Washington, DC 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Textiles, textile products, and materials and supplies* used in the manufacture and sale thereof, between New York, NY, and points in its commercial zone on the one hand, and, on the other, Asheville, NC, and points in its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (7) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

No. MC 144704TA, filed April 26, 1978. Applicant: CHERNICKY TRUCKING, INC., P.O. Box 215, Route 66, Shippenville, PA 16254. Applicant's representative: John A. Pillar, 205 Ross Street, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Coal* (in dump vehicles), from Clarion Township, Clarion County, PA, to Dunkirk Township, Chautauqua County, NY, under a continuing contract, or contracts, with Chernicky coal Co., Inc., of Shippenville, PA, for 180 days. Supporting shipper(s): Chernicky Coal Co., Inc., P.O. Box 175, Route 66, Shippenville, PA 16254. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 211 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 144705 TA, filed April 26, 1978. Applicant: CARL O. SCHEIDEMANTLE, Rural Delivery No. 1, Harmony, PA 16037. Applicant's representative: John A. Pillar, 205 Ross Street, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Coal,* in dump vehicles, from points in Beaver County, PA, to points in Jefferson County, OH, under a continuing contract, or contracts, with Xecol Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Xecol Corp., 1460 Coraopolis Heights Road, Coraopolis, Pa 15108. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 144706 TA filed April 27, 1978. Applicant: QUESTCO, INC., d.b.a. HAZELTON BROS., 689 Gifford Street, Falmouth, MA 02540. Applicant's representative: Joseph P. Dunn, Jr., 65 Falmouth Heights Road, P.O. Drawer U, Falmouth, MA 02541. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed automobiles* requiring the use of special equipment, from all points in Barnstable, Nantucket, and Dukes Counties, MA, to East Providence, RI, under a continuing contract, or contracts, with Auto Placement Center, Inc., for 180 days. Supporting shipper(s): Auto Placement Center, Inc., 160 Amaral Street, East Providence, RI 02915. Send protests to: Gerald H. Curry, District Supervisor, 24 Weybosset Street, Room 102, Providence, RI 02903.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-16043 Filed 6-8-78; 8:45 am]

[7035-01]

[Ex Parte No. 241; Rule 19, Second Rev. Exemption No. 138-A]

EXEMPTION UNDER MANDATORY CAR SERVICE RULES

To: *All railroads.*

Upon further consideration of Exemption No. 138 issued April 15, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 138 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is vacated.

This amendment shall become effective 11:59 p.m., May 16, 1978.

Issued at Washington, D.C., May 16, 1978.

Interstate Commerce Commission,

Robert S. Turkington,
Agent.

[FR Doc. 78-16048 Filed 6-8-78; 8:45 am]

[7035-01]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

No. MC 107478 (Sub-No. 21), filed November 25, 1975. Applicant: OLD DOMINION FREIGHT LINE, a corporation, 1791 Westchester Drive, P.O. Box 1189, High Point, NC 27261. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Applicant sought authority to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *general commodities,* with the usual exceptions, between Halifax and Vance Counties, NC on the one hand and, on the other, Baltimore, MD, and points in a described portion of Pennsylvania. The notice published at the time this application was filed failed to mention that applicant intended to tack the sought authority with other irregular-route authorities to provide a through service. The Commission has decided that applicant should actually be seeking authority to transport general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between points in NC, SC, and GA (except Augusta) and points in that portion of VA south of a line beginning at the VA-NC State line, and extending along U.S. Hwy 29 to Danville, VA, then along U.S. Hwy 360 to Richmond, VA, then along U.S. Hwy 60 to Norfolk, VA (except Franklin and Norfolk, VA, and points within 20 miles of Franklin or Norfolk), on the one hand and, on the other, Providence, RI, Corning, NY, Baltimore, MD, points in NJ, points in NY within 150 miles of Newark, NJ, points in MA and CT on and east of U.S. Hwy 5, points in CT on U.S. Hwy 1 between the NY-CT State line and New Haven, CT, and points in that portion of PA on, east, and south of a line beginning at the MD-PA State line and extending along Interstate Hwy 83 to York, PA, then along U.S. Hwy 30 to its junction with U.S. Hwy 202, then along U.S. Hwy 202 by way of New Hope, PA, to the PA-NJ State line. Interested persons, including protestants presently parties to this proceeding, have 30 days in which to file protests, after which time Division 1 will designate the proceeding for handling under the modified procedure, or, if deemed necessary, will assign it for oral hearing.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-16050 Filed 6-8-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 91-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

[M-135, Amdt. 1; June 5, 1978]

NOTICE OF ADDITION AND DELETION OF ITEMS TO THE JUNE 8, 1978, AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., June 8, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

(Deletion) 2. Docket 30332, IATA agreement dealing with reduced fares for cargo agents (Memo No. 7982, BPDA, BIA).

(Deletion) 6. Docket 29968, *Louisville Service Case*—Order on Discretionary Review (Memo No. 6240-C, OGC).

(Addition) 6a. Docket 29256 (*Seaboard World Airlines, Inc.* v. *Overseas National Airways, Inc.*, Enforcement Proceeding), discretionary review on Board initiative of initial decision and order terminating proceeding alleging that ONA engaged in foreign air transportation by conducting two cargo charter flights (Memo No. 7997, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Items 2 and 6 were inadvertently added to the June 8, 1978 agenda. Unless the Board acts on Item 6a by June 9, the initial decision, under Section 302.27 of the regulations, becomes the order of the Board on June 10, nine days after the time (May 31) for filing petitions for discretionary review. Accordingly, the following members have voted that agency business requires the deletion of Items 2 and 6 and the addition of Item 6a and that no earlier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1195-78 Filed 6-7-78; 8:45 am]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 5 p.m., June 12, 1978.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1193-78 Filed 6-7-78; 8:47 am]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., June 13, 1978.

PLACE: 5th Floor Hearing Room, 2033 K Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Regulation 1.61 Policy Discussion.
Proposed July Calendar.
Procedures for Review of Disciplinary Actions—Part 9.
Section 217—leverage policy discussion and legislative alternatives.

Portions closed to the public:

Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1194-78 Filed 6-7-78; 8:47 am]

[6570-06]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, June 13, 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 parts will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Amendment of fee schedule for Freedom of Information Act requests.
2. Modification of private bar program.

Closed to the public:

1. Litigation Authorization; General Counsel Recommendations: Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).
2. Proposed settlement of a Commissioner's charge.

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 June 6, 1978.

[S-1204-78 Filed 6-7-78; 12:30 pm]

[6715-01]

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, June 14, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit reports, compliance, personnel.

DATE AND TIME: Thursday, June 15, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of future meeting dates.
Correction and approval of minutes.
Reports from division heads: Administration Division and Public Records.
Pending legislation.
Pending litigation.
Appropriations and budget.
Liaison with other Federal agencies.
Memorandum on particulars.
Classification actions.
Routine administrative matters.
Advisory opinions: AO 1978-30 and AO 1978-33.

Portions closed to the public (executive session):

Any matters not concluded at the meeting of June 14, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-253-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1206-78 Filed 6-7-78; 3:16 pm]

[6740-02]

6

JUNE 6, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 1:30 p.m., June 8, 1978.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Initiation of an investigation.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-1197-78 Filed 6-7-78; 10:34 am]

[6730-01]

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., June 14, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Petition for reconsideration of order of conditional approval of Agreement No. 10270.

2. Special Docket No. 555: *Commercial Metal Company* v. *Sea-Land Service, Inc.*—Review of initial decision.

3. Special Docket No. 567: *Kuehne & Nagel, Inc.* v. *Lykes Bros. Steamship Co., Inc.*—Review of initial decision.

4. Docket No. 75-20: Puerto Rico Maritime Shipping Authority—Rates on government cargo—Decision on request for oral argument.

5. Docket No. 75-21: *West Gulf Maritime Association* v. *Port of Houston Authority of the Port of Houston, Tex.*—Decision on whether to hear oral argument.

6. Special Docket No. 565: *Mitsui & Co. (USA), Inc.* v. *Pacific Westbound Conference*—Review of the record.

7. Informal Docket No. 387(I): *Pan American Health Organization* v. *Moore-McCormack Lines, Inc.*—Complainant's petition for reconsideration of the decision of the Commission.

8. Docket No. 77-31: *Chevron Chemical Interntional, Inc.* v. *Sea-Land Service, Inc.*—Complainant's petition for reconsideration of the decision of the Commission.

Portions closed to the public:

1. Docket No. 77-4—Agreement Nos. 9902-3, et al.; petition for reconsideration of modification of order of investigation and hearing.

2. Activities of Sea-Train Lines, Inc., under sections 16 and 18 of the Shipping Act, 1916.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-1203-78 Filed 6-7-78; 10:34 am]

[6210-01]

8

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Wednesday, June 14, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

SUMMARY AGENDA

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be move to the discussion agenda.

1. Proposal to operate an automated clearing house at the Federal Reserve Bank of Chicago.

DISCUSSION AGENDA

1. Proposed statement to be presented to the Subcommittee on Financial Institutions of the Senate Committee on Banking, Housing and Urban Affairs regarding H.R. 10899, a bill entitled the "International Banking Act of 1978."

2. Proposed follow up report to be presented to the Senate Committee on Banking, Housing and Urban Affairs regarding a special survey undertaken by the three Federal bank regulatory agencies concerning bank stock loans, insider loans and overdrafts.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: June 7, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1198-78 Filed 6-7-78; 10:34 am]

[6750-01]

9

FEDERAL TRADE COMMISSION,

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 43, June 2, 1978, Page No. 24169.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, June 6, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has deleted consideration of disposition of a nonpublic Part II matter, and has changed the date of the meeting to Wednesday, June 7, 1978, 10 a.m.

[S-1190-78 Filed 6-7-78; 8:47 am]

[6750-01]

10

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, June 14, 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, June 14, 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-1191-78 Filed 6-7-78; 8:47 am]

[6750-01]

11

FEDERAL TRADE COMMISSION.

TIME AND PLACE: 2 p.m., Thursday, June 15, 1978.

PLACE: Room 532, (open); Room 540 (closed); Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

(1) Oral argument in Gold Bullion International, Ltd, et al., Docket No. 9094.

Portions closed to the public:

(2) Post-oral argument meeting to consider disposition of appeal from initial decision in Gold Bullion International, Ltd., et al., Docket No. 9094.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-1192-78 Filed 6-7-78; 8:47 am]

[7035-01]

12

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, June 13, 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. Division assignments.
2. Quarterly briefing on carrier and transportation industry outlook (economics).
3. Freight car utilization.
4. Internal minutes (PRO).

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.

Dated: June 6, 1978.

[S-1196-78 Filed 6-7-78; 8:47 am]

[7590-01]

13

NUCLEAR REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 28343.

PREVIOUSLY ANNOUNCED TIME AND DATE: Monday, June 5, 1978.

PLACE: Commissioner's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed (cancellation).

CHANGES IN THE MEETING: 1. The discussion of personnel matter (closed—Exemption 6) scheduled for approximately 3:30 p.m. was cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JUNE 6, 1978.

[S-1200-78 Filed 6-7-78; 10:34 am]

[7590-01]

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, June 7, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Wednesday, June 7, 10:30 a.m.—1. Discussion of draft testimony on waste management (approximately 1 hour—public meeting); continuation of June 5 meeting.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JUNE 6, 1978.

[S-1201-78 Filed 6-7-78; 10:34 am]

[7590-01]

15

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of June 12, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Monday, June 12, 9:30 a.m.—1. Discussion of draft testimony on waste management legislation (approximately 1½ hours—public meeting). 2. Affirmation Items (approximately 10 minutes—public meeting): (a) Modification of ECCS Rule in 10 CFR 50.46 and (b) Order in GESMO Concerning PIRG.

Monday, June 12, 1:30 p.m.—1. Discussion of personnel matter (approximately 1 hour). (Closed—Exemption 6.) 2. Discussion of OIA/OGC inquiry in testimony of Executive Director for Operations (approximately 1 hour). (Closed—Exemption 6.)

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JUNE 5, 1978.

[S-1202-78 Filed 6-7-78; 10:34 am]

[7905-01]

16

RAILROAD RETIREMENT BOARD.

TIME AND PLACE: 9 a.m., June 16, 1978.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Ill. 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

(1) Remodeling of the first floor information office.
(2) Hearings and appeals backlog.
(3) Rewrite of regulations on erroneous payments.
(4) Delegation of functions by Board.
(5) Questionnaire on employer status of certain companies.
(6) General Services Administration proposal for commercial contractual cleaning service.
(7) Technical amendments.
(8) Office of Management and Budget Bulletin No. 78-13 on control of official travel.

Portion closed to the public.

(9) Appeal from referee's denial of disability annuity application, William D. Farley.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, COM NO. 312-751-4920, FTS NO. 387-4920.

[S-1205-78 Filed 6-7-78; 2:05 pm]

[7910-01]

17

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, June 13, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 7 are open to public observations. Matters 8 and 9 are closed to public observation. Matters 10 and 11 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held June 6, 1978, and other Board meetings, if any.
2. Recommendation for clearance or assignment to a division: Fairchild Industries,

Inc.—Consolidated with: Burns Aero Sea Co., Inc., and S. J. Industries, Inc., fiscal years ending December 31, 1969, 1970, and 1971.

3. Recommended clearances without assignment (List 1910):

D. Ward Leonard Electric Co., fiscal year ended December 31, 1975.

D-1. Lee Spring Co., Inc., fiscal year ended December 31, 1975.

D-2. Unimax Switch Corp., fiscal year ended December 31, 1975.

4. Recommended determination of excess profits: A. J. Industries, Inc. (Agent) ($625,000)—Consolidated with: Sargent-Fletcher Co., Inc., Fleetwood Metals, Inc., Armstrong Products Co., Sargent Engineering Corp., fiscal year ended March 21, 1972.

5. Recommended determination of excess profits and clearance: Lanson Industries, Inc., fiscal year ended October 31, 1971 ($750,000); fiscal year ended October 31, 1972 (Clearance).

6. Recommended determination of excess profits: Stelma, Inc., fiscal year ended March 31, 1967.

7. Partial mandatory exemption of new durable productive equipment: Bryand Grinder Corp., fiscal years ended November 30, 1974, and 1975.

8. Court of Claims Case: *Whittaker Corporation, SII to Columbus Milpar and Mfg. Co.* v. *United States*, Ct. Cl. No. 47-74.

9. Report on Eastern Regional Renegotiation Board progress.

10. Approval of agenda for meetings to be held June 27, and July 3, 1978.

11. Approval of agenda for other meeting, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: June 6, 1978.

GOODWIN CHASE,
Chairman.

[S-1199-78 Filed 6-7-78; 10:34 am]

[7910-01]

18

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 19105, May 3, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Wednesday, June 7, 1978; 9:30 a.m.

CHANGE IN MEETING: Date postponed to Thursday, June 22, 1978; 9:30 a.m.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: June 7, 1978.

GOODWIN CHASE,
Chairman.

[S-1207-78 Filed 6-7-78; 3:16 pm][I50[7590-01]

19

NUCLEAR REGULATORY COMMISSION

TIME AND DATE: Week of June 5, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

FRIDAY, JUNE 9

9 a.m.—Discussion of Stay Motion in Seabrook (ALAB-471). (approx. 1 hr.) (Closed-Exemption . 10) Continued from June 7.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed: 202-634-1410

JUNE 7, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-1208-78 Filed 6-8-78; 10:46 am]

federal register

FRIDAY, JUNE 9, 1978
PART II



COUNCIL ON ENVIRONMENTAL QUALITY

■

NATIONAL ENVIRONMENTAL POLICY ACT

Proposed Regulations for Implementing Procedural Provisions

[3125-01]

COUNCIL ON ENVIRONMENTAL QUALITY

[40 CFR Parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508]

NATIONAL ENVIRONMENTAL POLICY ACT—REGULATIONS

Proposed Implementation of Procedural Provisions

MAY 31, 1978.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations implementing procedural provisions of the National Environmental Policy Act are submitted for public comment. These regulations would provide Federal agencies with uniform procedures for implementing the law. The regulations would accomplish three principal aims: to reduce paperwork, to reduce delays, and to produce better decisions.

DATES: Comments must be received by August 11, 1978.

ADDRESSES: Comments should be addressed to: Nicholas C. Yost, General Counsel, Attention: NEPA Comments, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Nicholas C. Yost, General Council on Environmental Quality (address same as above), 202-633-7032.

SUPPLEMENTARY INFORMATION:

1. PURPOSE

We are publishing for public review draft regulations to implement the National Environmental Policy Act. Their purpose is to provide all Federal agencies with an efficient, uniform procedure for translating the law into practical action. We expect the new regulations to accomplish three principal aims: To reduce paperwork, to reduce delays, and at the same time to produce better decisions, thereby better accomplishing the law's objective, which is to protect and enhance the quality of the human environment.

These regulations replace the Guidelines issued by previous Councils, under Executive Order 11514 (1970), and apply more broadly. The Guidelines assist Federal agencies in carrying out NEPA's most conspicuous requirement, the preparation of environmental impact statements (EISs). These regulations were developed in response to Executive Order 11991 issued by President Carter in 1977, and implement "the procedural provisions of the Act." They address all nine subdivisions of Section 102(2) of the Act, rather than just the EIS provision covered by the Guidelines, and they carry out the broad purposes and spirit of the Act.

President Carter instructed us that the regulations should be:

> * * * designed to make the enviromental impact statement more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives.

The President has also signed Executive Order 12044, dealing with regulatory reform. It is our intention that that Order and these NEPA regulations be read together and implemented consistently.

2. SUMMARY OF CHANGES MADE BY THE REGULATIONS

Following this mandate in developing the new regulations, we have kept in mind the threefold objective of less paperwork, less delay, and better decisions.

A. REDUCING PAPERWORK

The measures to reduce paperwork are listed in sec. 1500.4 of the regulations. Neither NEPA nor these regulations impose paperwork requirements on the public. These regulations reduce such requirements on agencies of government.

i. *Reducing the length of environmental impact statements.* Agencies are directed to write concise EISs, which shall normally be less than 150 pages, or, for proposals of unusual scope and complexity, 300 pages.

ii. *Emphasize options among alternatives.* The regulations stress that the environmental analysis is to concentrate on alternatives, which are the heart of the matter; to treat peripheral matters briefly; and to avoid accumulating masses of background data which tend to obscure the important issues.

iii. *Using an early "scoping" process to determine what the important issues are.* To assist agencies in deciding what the central issues are, how long the EIS shall be, and how the responsibility for the EIS will be allocated among the lead agency and cooperating agencies, a new "scoping" procedure is established. Scoping meetings are to be held as early in the NEPA process as possible—in most cases, shortly after the decision to prepare an EIS—and shall be integrated with other planning.

iv. *Writing in plain language.* The regulations strongly advocate writing in plain, direct language.

v. *Following a clear format.* The regulations spell out a standard format intended to eliminate repetitive discussion, stress the major conclusions, highlight the areas of controversy, and focus on the issues to be resolved.

vi. *Requiring summaries of environmental impact statements* to make the document more usable by more people.

vii. *Eliminating duplication.* To eliminate duplication, the regulations provide for Federal agencies to prepare EISs jointly with state and local units of government which have "little NEPA" requirements. They also permit a Federal agency to adopt another agency's EIS.

viii. *Consistent terminology.* The regulations provide a uniform terminology for the implementation of NEPA. For instance, the CEQ requirement for an environmental assessment will replace the following (nonexhaustive) list of comparable existing agency procedures: "survey" (Corps of Engineers), "environmental analysis" (Forest Service), "initial assessment" (Transportation), "normal or special clearance" (HUD), "environmental analysis report" (Interior), and "marginal impact statement" (HEW).)

ix. *Reducing paperwork requirements.* The regulations will reduce reporting paperwork requirements as summarized below. The existing Guidelines issued under Executive Order 11514 cover section 102(2)(C) of NEPA (environmental impact statements), and the new CEQ regulations cover sections 102(2) (A) through (I). The regulations replace not only the requirements of the Guidelines concerning environmental impact statements, but also replace more than 70 different sets of existing agency regulations, although each agency will issue its own implementing procedures to explain how these regulations apply to its particular programs.

Existing Requirements (Applicable Guidelines *sections are noted.*)	New Requirements (Applicable regulations *sections are noted.*)
Assessment (optional under Guidelines on a case-by-case basis; currently required, however by most major agencies in practice or in procedures) 1500.6.	*Assessment* (limited requirement: not required where there would not be environmental effects or where an EIS would normally be required) 1501.3, .4.
Notice of intent to prepare impact statement 1500.6.	*Notice of intent* to prepare EIS and commence scoping process 1501.7
Quarterly list of notices of intent 1500.6.	Requirement abolished.
Negative determination (decision not to prepare impact, statement) 1500.6.	*Finding of no significant impact* 1501.4.
Quarterly list of negative determinations 1500.6.	Requirement abolished.
Draft EIS 1500.7.....	*Draft EIS* 1502.9
Final EIS 1500.6, .10	*Final EIS* 1502.9
EISs on legislative reports ("agency reports on legislation initiated elsewhere") 1500.5(a)(1).	Requirement abolished.
Agency report to CEQ on implementation experience 1500.14(b).	Do.

Existing Requirements (Applicable Guidelines *sections are noted.*)	New Requirements (Applicable regulations *sections are noted.*)
Agency report to CEQ on substantive guidance 1500.6(c), .14.	Do.
Record of decision (no Guideline provision but required by many agencies' own procedures and in a wide range of cases generally under the Administrative Procedure Act and OMB Circular A-95, Part I, sec. 6(c) and (d), Part II, sec. 5(b)(4)).	*Record of decision* (brief explanation of decision EIS has been prepared; no circulation requirement) 1505.2.

B. REDUCING DELAY

The measures to reduce delay are listed in § 1500.5 of the regulations.

i. *Time limits on the NEPA process.* The regulations encourage lead agencies to set time limits on the NEPA process and require that they be set when requested by an applicant.

ii. *Integrating EIS requirements with other environmental review requirements.* Often the NEPA process and the requirements of other laws proceed separately, causing delay. The regulations provide for all agencies with jurisdiction over the project to cooperate so that all reviews may be conducted simultaneously.

iii. *Integrating the NEPA process into early planning.* If environmental review is tacked on to the end of the planning process, then the process is prolonged, or else the EIS is written to justify a decision that has already been made, and genuine consideration may not be given to environmental factors.

iv. *Emphasizing interagency cooperation before the EIS is drafted.* The regulations emphasize that other agencies should begin cooperating with the lead agency before the EIS is prepared in order to encourage early resolution of differences. By having the affected agencies cooperate early in preparing a draft EIS, we hope both to produce a better draft and to reduce delays caused by unnecessarily late criticism.

v. *Swift and fair resolution of lead agency disputes.* When agencies differ as to who shall take the lead in preparing an EIS or none is willing to take the lead, the regulations provide a means for prompt resolution of the dispute.

vi. *Prepare EISs on programs and not repeat the same material in project specific EISs.* Material common to many actions may be covered in a broad EIS, and then through "tiering" may be incorporated by reference rather than reiterated in each subsequent EIS.

vii. *Legal delays.* The regulations provide that litigation should come at the end rather than in the middle of the process.

viii. *Accelerated procedures for legislative proposals.* The regulations provide accelerated simplified procedures for environmental analysis of legislative proposals, to fit better with Congressional schedules.

C. BETTER DECISIONS

Most of the features described above will help to improve decisionmaking. This, of course, is the fundamental purpose of the NEPA process, the end to which the EIS is a means. Section 101 of NEPA sets forth the substantive requirements of the Act, the policy to be implemented by the "action-forcing" procedures of Section 102. These procedures must be tied to their intended purpose, otherwise they are indeed useless paper work and wasted time. A central purpose of these regulations is to tie means to ends.

i. *Securing more accurate, professional documents.* The regulations insist upon accurate documents as the basis for sound decisions. The documents should draw upon all the appropriate disciplines from the natural and social sciences, plus the environmental design arts. The lead agency is responsible for the professional integrity of reports, and care should be taken to keep any possible bias from data prepared by applicants out of the environmental analysis. A list of people who helped prepare documents, and their professonal qualifications, should be included in the EIS.

ii. *Recording in the decision how the EIS was used.* The new regulations require agencies to point out in the EIS analysis of alternatives which one is preferable on environmental grounds—including the often-overlooked alternative of no action at all. (However, if "no action" is identified as environmentally preferable, a second-best alternative must also be pointed out.)

Agencies must also produce a concise public record, indicating how the EIS was used in arriving at the decision. If the EIS is disregarded, it really is useless paperwork. It only contributes if it is used by the decisionmaker and the pubic. The record must state what the final decision was; whether the environmentally preferable alternative was selected; and if not, what considerations of national policy led to another choice.

iii. *Insure follow-up of agency decisions.* When an agency requires environmentally protective mitigation measures in its decision, the regulations provide for means to ensure that these measures are monitored and implemented.

Taken altogether, the regulations aim for a streamlined process, but one which as a broader purpose than the Guidelines they replace. The Guidelines emphasized a single document, the EIS, while the regulations emphasize the entire NEPA process, from early planning through assessment and EIS preparation through provisions for follow-up. They attempt to gear means to ends—to insure that the action-forcing procedures of sec. 102(2) of NEPA are used by agencies to fulfill the requirements of the Congressionally mandated policy set out in sec. 101 of the Act. Furthermore, the regulations are uniform, applying in the same way to all federal agencies, although each agency will develop its own procedures for implementing the regulations. Our attempt has been with these new regulations to carry out as faithfully as possible the original intent of Congress in enacting NEPA.

3. BACKGROUND

We have been greatly assisted in our task by the hundreds of people who responded to our call for suggestions on how to make the NEPA process work better. In public hearings which we held in June 1977, we invited testimony from a broad array of public officials, organizations, and private citizens, affirmatively involving NEPA's critics as well as its friends.

Among those represented were the U.S. Chamber of Commerce, which coordinated testimony from business; the Building and Construction Trades Department of the AFL-CIO, for labor; the National Conference of State Legislatures, for state and local governments; the Natural Resources Defense Council, for environmental groups. Scientists, scholars, and the general public were there.

There was extraordinary consensus among these diverse witnesses. All, without exception, expressed the view that NEPA benefited the public. Equally widely shared was the view that the process had become needlessly cumbersome and should be trimmed down. Witness after witness said that the length and detail of EIS's made it extremely difficult to distinguish the important from the trivial. The degree of unanimity about the good and bad points of the NEPA process was such that at one point an official spokesman for the oil industry rose to say that he adopted in its entirety the presentation of the President of the Sierra Club.

After the hearings we culled the record to organize both the problems and the solutions proposed by witnesses into a 38-page "NEPA Hearing Questionnaire." The questionnaire was sent to all witnesses, every state governor, all federal agencies, and everyone who responded to an invitation in the FEDERAL REGISTER. We received more than 300 replies, from a broad cross section of groups and individuals. By the comments we received from respondents we gauged our success in faithfully presenting the results of the public hearings. One commenter, an

electric utility official, said that for the first time in his life he knew the government was listening to him, because all the suggestions made at the hearing turned up in the questionnaire. We then collated all the responses for use in drafting the regulations.

We also met with every agency of the federal government to discuss what should be in the regulations. Guided by these extensive interactions with government agencies and the public, we prepared draft regulations which were circulated for comment to all federal agencies in December 1977. We then studied agency comments in detail, and consulted numerous federal officials with special experience in implementing the Act. Informal redrafts were circulated to the agencies with greatest experience in preparing environmental impact statements. Improvements from our December 12 draft reflect this process.

At the same time that federal agencies were reviewing the early draft, we continued to meet with, listen to, and brief members of the public, including representatives of business, labor, state and local governments, environmental groups and others. We also considered seriously and proposed in our regulations virtually every major recommendation made by the Commission on Federal Paperwork and the General Accounting Office in their recent studies on the environmental impact statement process. The studies by these two independent bodies were among the most detailed and informed reviews of the paperwork abuses of the impact statement process. In many cases, such as streamlining intergovernmental coordination, the proposed regulations go further than their recommendations.

4. Exclusion

It should be noted that the issue of application of NEPA to environmental effects occurring outside the United States is the subject of continued discussions within the government and is not addressed in these regulations. Affected agencies continue to hold different views on this issue. Nothing in these regulations should be construed as asserting that NEPA either does or does not apply in this situation.

5. Analysis and Assessment of The Regulations

Since Executive Order 12044 became effective on March 23, 1978, after the Council's draft NEPA regulations had completed interagency review, the extent to which Executive Order 12044 applies to the Council's nearly completed process of developing NEPA regulations is not clear. Nevertheless, the requirements of Executive Order 12044 have been undertaken to the fullest extent possible. The analyses required by sections 2 (b), (c), (d), and 3(b), to the extent they may apply to the Council's proposed NEPA regulations, are available on request.

The Council has prepared a special environmental assessment of these regulations to illustrate the analysis that is appropriate under NEPA. The assessment discusses alternative regulatory approaches. Some regulations lend themselves to an analysis of their environmental impacts, particularly regulations with substantive requirements of those which apply to a physical setting. Although the Council obviously believes that its regulations will work to improve environmental quality, the impacts of procedural regulations of this kind are not susceptible to detailed analysis beyond that set out in the assessment.

Both the analyses under Executive Order 12044 and the assessment described above are available on request. Comments may be made on both documents in the same manner and by the same time as the comments on the regulations.

6. Additional Subjects for Comments

Several issues have been brought to our attention as appropriate subjects to be covered in the regulations. They are difficult issues on which we particularly solicit thoughtful views.

a. *Data bank.* Many were intrigued by the idea of a national data bank in which information developed in one EIS would be stored and become available for use in a subsequent EIS. Public comment on the questionnaire led us to conclude, reluctantly, that the idea is impractical. In practice most environmental information is specific to given areas or activities. To assemble a nationwide data bank would demand financial and other resources that are simply beyond the benefits that may be achieved. We have not included a data bank in these regulations but have instead tried to insure that in the scoping process the preparers of one EIS become aware of all related EISs so they can make use of the information in them. We would, however, welcome comment on this subject.

b. *Encouragement for agencies to fund public comments on EISs when an important viewpoint would otherwise not be presented.* The Council has been urged to provide either encouragement or direction to agencies, as part of their routine EIS preparation, to provide funds to responsible groups for public comments when important viewpoints would not otherwise be presented. Although we are acutely aware of the importance of comments to the success of the EIS process, we have not included such a provision. We would welcome comment on this subject also.

Conclusion

We look forward to your comments and help. To repeat, comments should be sent by August 11, 1978, to Nicholas C. Yost, General Counsel, Attention: NEPA Comments, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006.

Thank you for cooperating with us.

Charles Warren,
Chairman.

Title 40 Chapter V is proposed to be amended by revising Part 1500 and by adding Parts 1501 through 1508 to read as follows:

PART 1500—PURPOSE, POLICY, AND MANDATE

Sec.
1500.1 Purpose.
1500.2 Policy.
1500.3 Mandate.
1500.4 Reducing paperwork.
1500.5 Reducing delay.
1500.6 Agency authority.

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970 as amended by Executive Order 11991, May 24, 1977).

§ 1500.1 Purpose.

(a) The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement Section 102(2). Their purpose is to tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101.

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(c) Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not generate paperwork—even excellent paperwork—but to foster excellent

action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. These regulations provide the direction to achieve this purpose.

§ 1500.2 Policy.

Federal agencies shall to the fullest extent possible:

(a) Interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the Act and in these regulations.

(b) Implement procedures to make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

(c) Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently, rather than consecutively.

(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

§ 1500.3 Mandate.

Parts 1500–1508 of this Title provide regulations applicable to and binding on all Federal agencies for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) (NEPA or the Act) except where compliance would be inconsistent with other statutory requirements. These regulations are issued pursuant to NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977). These regulations, unlike the predecessor guidelines, are not confined to Sec. 102(2)(C) (environmental impact statements). The regulations apply to the whole of section 102(2). The provisions of the Act and of these regulations must be read together as a whole in order to comply with the spirit and letter of the law. It is the Council's intention that judicial review of agency compliance with these regulations not occur before an agency has filed the final environmental impact statement, or has made a finding of no significant impact, or takes action that will result in irreparable injury.

§ 1500.4 Reducing paperwork.

Agencies shall reduce excess paperwork by:

(a) Reducing the length of environmental impact statements (§ 1502.2(c)), by means such as setting appropriate page limits (§ 1501.7(b)(1) and 1502.7).

(b) Preparing analytic rather than encyclopedic environmental impact statements (§ 1502.2(a)).

(c) Discussing only briefly issues other than significant ones (§ 1502.2(b)).

(d) Writing environmental impact statements in plain language (§ 1502.8).

(e) Following a clear format for environmental impact statements (§ 1502.10).

(f) Emphasizing the portions of the environmental impact statement that are useful to decisionmakers and the public (§§ 1502.14 and 1502.15) and reducing emphasis on background material (§ 1502.16).

(g) Using the scoping process not only to identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, narrowing the scope of the environmental impact statement process accordingly (§ 1501.7).

(h) Summarizing the environmental impact statement (§ 1502.12) and circulating the summary instead of the entire environmental impact statement if the latter is unusually long (§ 1502.19).

(i) Using program, policy, or plan environmental impact statements and tiering from statements of broad scope to those of narrower scope to eliminate repetitive discussions of the same issues (§§ 1502.4 and 1502.20).

(j) Incorporating by reference (§ 1502.21).

(k) Integrating NEPA requirements with other environmental review and consultation requirements (§ 1502.25).

(l) Requiring comments to be as specific as possible (§ 1503.3).

(m) Attaching and circulating only changes to the draft environmental impact statement, rather than rewriting and circulating the entire statement when changes are minor (§ 1503.4(b)).

(n) Eliminating duplication with State and local procedures by providing for joint preparation (§ 1506.2) and with other Federal procedures by providing for one agency's adoption of appropriate environmental documents prepared by another agency (§ 1506.3).

(o) Combining environmental documents with other documents (§ 1506.4).

(p) Using categorical exclusions to exclude from environmental impact statement requirements categories of actions which do not individually or cumulatively have a significant effect on the human environment (§ 1508.4).

(q) Using a finding of no significant impact and not preparing an environmental impact statement when an action not otherwise excluded will not have a significant effect on the human environment (§ 1508.13).

§ 1500.5 Reducing delay.

Agencies shall reduce delay by:

(a) Integrating the NEPA process into early planning (§ 1501.2).

(b) Emphasizing interagency cooperation before the environmental impact statement is prepared rather than adversary comments on a completed document (§ 1501.6).

(c) Insuring the swift and fair resolution of lead agency disputes (§ 1501.5).

(d) Using the scoping process for an early identification of what are and what are not the real issues (§ 1501.7).

(e) Establishing appropriate time limits for the environmental impact statement process (§§ 1501.7(b)(2) and 1501.8).

(f) Preparing environmental impact statements early in the process (§ 1502.5).

(g) Integrating NEPA requirements with other environmental review and consultation requirements §§ 1502.25).

(h) Eliminating duplication with State and local procedures by providing for joint preparation (§ 1506.2) and with other Federal procedures by providing for one agency's adoption of appropriate environmental documents prepared by another agency (§ 1506.3).

(i) Combining environmental documents with other documents (§ 1506.4).

(j) Using accelerated procedures for proposals for legislation (§ 1506.8).

(k) Using categorical exclusions to exclude from environmental impact statement requirements categories of actions which do not individually or cumulatively have a significant effect on the human environment (§ 1508.4).

(l) Using a finding of no significant impact and not preparing an environmental impact statement when an action not otherwise excluded will not have a significant effect on the human environment (§ 1508.13).

§ 1500.6 Agency authority.

Each agency shall interpret the provisions of the Act as a supplement to

its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to ensure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in section 102 means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

PART 1501—NEPA AND AGENCY PLANNING

Sec.
1501.1 Purpose.
1501.2 Apply NEPA early in process.
1501.3 When to prepare an environmental assessment.
1501.4 Whether to prepare an environmental impact statement.
1501.5 Lead agencies.
1501.6 Cooperating agencies.
1501.7 Scoping.
1501.8 Time limits.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May, 24, 1977).

§ 1501.1 Purpose.

The purposes of this part include:

(a) Integrating the NEPA process into early planning to insure appropriate consideration of NEPA's policies and to eliminate delay.

(b) Emphasizing cooperative consultation among agencies before the environmental impact statement is prepared rather than adversary comments on a completed document.

(c) Providing for the swift and fair resolution of lead agency disputes.

(d) Identifying at an early stage the significant environmental issues deserving of study and deemphasizing insignificant issues, narrowing the scope of the environmental impact statement accordingly.

(e) Providing a mechanism for putting appropriate time limits on the environmental impact statement process.

§ 1501.2 Apply NEPA early in process.

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts. Each agency shall:

(a) As specified by § 1507.2 comply with the mandate of sec. 102(2)(A) to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment."

(b) Identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses. Environmental documents and appropriate analyses shall be circulated and reviewed at the same time as other planning documents.

(c) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by sec. 102(2)(E) of the Act.

(d) Provide for cases where actions are planned by other than Federal agencies before Federal involvement so that:

(1) The sponsor of the proposal initiates studies if Federal involvement is foreseeable.

(2) The Federal agency consults early with appropriate State and local agencies and with interested private persons and organizations when its own involvement is reasonably foreseeable.

(3) The Federal agency commences its NEPA process at the earliest possible time.

§ 1501.3 When to prepare an environmental assessment.

An environmental assessment (§ 1508.9) shall be prepared unless one is not necessary under the procedures adopted under § 1507.3(b). Agencies may prepare an assessment on any action at any time in order to assist agency planning and decisionmaking.

§ 1501.4 Whether to prepare an environmental impact statement.

In determining whether to prepare an environmental impact statement the Federal agency shall:

(a) Determine under § 1507.3 whether the proposal is one which

(1) Normally requires an environmental impact statement, or

(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(b) If the proposed action is not covered by paragraph (a), prepare an environmental assessment (§ 1508.9). The agency shall involve environmental agencies and the public, to the extent practicable, in preparing the assessment.

(c) Based on the environmental assessment make its determination whether to prepare an environmental impact statement.

(d) If the agency will prepare an environmental impact statement, the agency shall commence the scoping process (§ 1501.7).

(e) If the agency determines on the basis of the environmental assessment not to prepare a statement, the agency shall prepare a finding of no significant impact (§ 1508.13).

(1) The agency shall make the finding of no significant impact available in a manner calculated to inform the affected public as specified in § 1506.6.

(2) In certain limited circumstances the agency shall make the finding of no significant impact available for public review for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to section 1507.3(b), or

(ii) The nature of the proposed action is one without precedent.

§ 1501.5 Lead agencies.

(a) A lead agency shall supervise the preparation of an environmental impact statement if more than one Federal agency either:

(1) Proposes or is involved in the same action; or

(2) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.

(b) More than one Federal, State, or local agency, one of which must be Federal, may act as joint lead agencies to prepare an environmental impact statement (section 1506.2).

(c) If an action satisfies the provisions of paragraph (a) of this section the potential lead agencies concerned shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question in a manner that will not cause delay. If there is disagreement among the agencies, the following factors (which are listed in descending importance) shall determine lead agency designation:

(1) Magnitude of agency's involvement.

(2) Project approval/disapproval authority.

(3) Expertise concerning the action's environmental effects.

(4) Duration of agency's involvement.

(5) Sequence of agency's involvement.

(d) If potential lead agencies fail to agree on which agency shall be the lead agency as specified in paragraph (c) of this section, (1) any Federal agency or (2) any State or local agency or private person substantially affected by the absence of agreement on lead agency designation may make a

written request to the potential lead agencies that a lead agency be designated.

(e) If Federal agencies are unable to agree on which agency will be the lead agency or if the procedure described in paragraph (d) of this section has not resulted within a reasonable time in a lead agency designation, any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency.

A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

(1) A precise description of the nature and extent of the proposed action;

(2) A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified in subparagraph (2).

(f) A response may be filed by any potential lead agency concerned within 20 days after a request is filed with the Council. The Council shall determine within 20 days after receiving the request and all responses which Federal agency shall be the lead agency and the extent to which the other Federal agencies concerned shall be cooperating Federal agencies.

§ 1501.6 Cooperating agencies.

The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency.

(a) The lead agency shall:

(1) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.

(2) To the maximum extent possible consistent with its responsibility as lead agency use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise.

(3) Meet with a cooperating agency at the latter's request.

(b) Each cooperating agency shall:

(1) Participate in the NEPA process at the earliest possible time.

(2) Participate in the scoping process.

(3) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.

(4) Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.

(5) Normally a cooperating agency shall use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests

§ 1501.7 Scoping.

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (§ 1508.21) in the FEDERAL REGISTER.

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action).

(2) Determine the scope (§ 1508.24) and the significant issues to be analyzed in depth in the environmental impact statement.

(3) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (§ 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or a reference to their coverage elsewhere.

(4) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

(5) Indicate any environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement which is the subject of the meeting.

(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may comply with section 1502.25.

(7) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decision-making schedule.

(8) When practicable hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has. Such scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.

(b) As part of the scoping process the lead agency may:

(1) Set page limits on environmental documents (§ 1502.7).

(2) Set time limits (§ 1501.8).

(c) An agency shall revise the determinations made under paragraphs (a) and (b) of this section if substantial changes are made later in the proposed action or if significant new circumstances (including information) arise which bear on the proposal or its impacts.

§ 1501.8 Time limits.

Although the Council has decided that universal time limits for the entire NEPA process are too inflexible to prescribe, Federal agencies are encouraged to set time limits appropriate to individual action (consistent with § 1506.10). When multiple agencies are involved the reference to agency below means lead agency.

(a) The agency shall:

(1) Consider the following factors in determining time limits:

(i) Potential for environmental harm.

(ii) Size of the proposed action.

(iii) State of the art of analytic techniques.

(iv) Degree of public need for the proposed actions, including the consequences of delay.

(v) Number of persons and agencies affected.

(vi) Degree to which relevant information is known and if not known the time required for obtaining it.

(vii) Degree to which the action is controversial.

(2) Set limits if an applicant for the proposed action requests them, provided that they are consistent with the purposes of NEPA and other essential considerations of national policy.

(b) The agency may:

(1) Set overall time limits or limits for each constituent part of the NEPA process, which may include:

(i) Decision on whether to prepare an environmental impact statement (if not already decided).

(ii) Determination of the scope of the environmental impact statement.

(iii) Preparation of the draft environmental impact statement.

(iv) Review of any comments on the draft environmental impact statement from the public and agencies.

(v) Preparation of the final environmental impact statement.

(vi) Review of any comments on the final environmental impact statement.

(vii) Decision on the action based in part on the environmental impact statement.

(2) Designate a person (such as the project manager or a person in the agency's office with NEPA responsibilities) to expedite the NEPA process.

(c) State or local agencies or members of the public may request a Federal Agency to set time limits.

PART 1502—ENVIRONMENTAL IMPACT STATEMENT

Sec.
1502.1 Purpose.
1502.2 Implementation.
1502.3 Statutory Requirements for Statements.
1502.4 Major Federal Actions Requiring the Preparation of Environmental Impact Statements.
1502.5 Timing.
1502.6 Interdisciplinary Preparation.
1502.7 Page Limits.
1502.8 Writing.
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1502.14 Alternatives Including the Proposed Action.
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1502.17 List of Preparers.
1502.18 Appendix.
1502.19 Circulation of the Environmental Impact Statement.
1502.20 Tiering.
1502.21 Incorporation by Reference.
1502.22 Incomplete or Unavailable Information.
1502.23 Cost-Benefit Analysis.
1502.24 Methodology and Scientific Accuracy.
1502.25 Environmental Review and Consultation Requirements.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1502.1 Purpose.

The primary purpose of an environmental impact statement is as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.

§ 1502.2 Implementation.

To achieve the purposes set forth in § 1502.1 agencies shall prepare environmental impact statements in the following manner:

(a) Environmental impact statements shall be analytic rather than encyclopedic.

(b) Impacts shall be discussed in proportion to their significance. There shall be only brief discussion of other than significant issues. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted.

(c) Environmental impact statements shall be kept concise and shall be no longer than absolutely necessary to comply with NEPA with these regulations. Length should vary first with potential environmental problems and then with project size.

(d) Environmental impact statements shall state how alternatives considered in it and decisions baseon on it will or will not achieve the requirements of sections 101 and 102(1) of the Act and other environmental laws and policies.

(e) The range of alternatives discussed in environmental impact statements shall encompass those the ultimate agency decisionmaker considers.

(f) Agencies shall not commit resources prejudicing selection of alternatives before making a final decision (§ 1506.1).

(g) Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.

§ 1502.3 Statutory requirements for statements.

As required by sec. 102(2)(C) of NEPA environmental impact statements (§ 1508.11) are to be included in every recommendation or report

On proposals (§ 1508.22).

For legislation and (§ 1508.16).

Other major Federal actions (§ 1508.17).

Significantly (§ 1508.25).

Affecting (§§ 1508.3, 1508.8).

The quality of the human environment (§ 1508.14).

§ 1502.4 Major Federal actions requiring the preparation of environmental impact statements.

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (§ 1508.24) to determine which proposal(s) shall be the subject of a particular statement. Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (§ 1508.17). Agencies shall prepare statements on broad actions to be relevant to policy and timed to coincide with meaningful points in agency planning and decisionmaking.

(c) When preparing statements on broad actions, agencies may find it useful to evaluate the proposal(s) by one or more agencies in one of the following ways:

(1) Geographic, including actions occurring in the same general location, such as an ocean, region, or metropolitan area.

(2) Generic, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

(3) Technological development including federal or federally assisted research, development or demonstration programs aimed at developing new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(d) Agencies shall as appropriate employ scoping (§ 1501.7), tiering (§ 1502.20), and other methods listed in §§ 1500.4 and 1500.5 to relate broad and narrow actions and to avoid duplication and delay.

§ 1502.5 Timing.

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency makes or is presented with a proposal (§ 1508.22) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can practically serve as an important contribution to the decisionmaking process and shall not be used to rationalize or justify decisions already made (§§ 1500.2(c), 1501.2, and 1502.2). For instance:

(a) For projects directly undertaken by Federal agencies such statements shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary

(b) For applications to the agency appropriate preliminary environmental assessments or statements shall be commenced at the latest immediately after the application is received, but federal agencies are encouraged to prepare them earlier, preferably jointly with applicable State or local agencies.

(c) For adjudication, the final environmental impact statement shall nor-

mally precede the final staff recommendation and that portion of the public hearing related to the impact study. In appropriate circumstances the statement may follow preliminary hearings designed to gather information for use in the statements.

§ 1502.6 Interdisciplinary preparation.

Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be correlated to the scope and issues identified in the scoping process (§ 1501.7).

§ 1502.7 Page limits.

The text of final environmental impact statements (e.g., paragraphs (d) through (g) of § 1502.10) shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages.

§ 1502.8 Writing.

Environmental impact statements shall be written in plain language and may use appropriate graphics so that they may be understood by decisionmakers and the public. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.

§ 1502.9 Draft, final, and supplemental statements.

Except as provided in § 1506.8, environmental impact statements shall be prepared in two stages and may be supplemented.

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in Part 1503. At the time the draft statement is prepared it must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. In the draft statement the agency shall make every effort to disclose and discuss at appropriate points in the text all major points of view on the environmental impacts of the alternatives including the proposed action.

(b) Final environmental impact statements shall respond to comments as required in Part 1503. In the final statement the agency shall discuss at appropriate points in the text the existence of any responsible opposing view not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

(c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances, relevant to environmental concerns (including information), bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

(3) Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft statement unless alternative procedures are approved by the Council.

§ 1502.10 Recommended format.

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed actions. The following standard format for environmental impact statements should be followed unless there is a compelling reason to do otherwise:

(a) Cover sheet
(b) Summary
(c) Table of Contents
(d) Purpose of and Need for Action
(e) Alternatives Including Proposed Action (secs. 102(2)(C)(iii) and 102(2)(E) of the Act).
(f) Environmental Consequences (especially secs. 102(2)(C) (i), (ii), (iv), and (v) of the Act.
(g) Affected Environment.
(h) List of Preparers.
(i) List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent.
(j) Index.
(k) Appendices (if any).

If a different format is used, it shall include paragraphs (a), (b), (c), (h), (i), and (j), of this section and shall include the substance of paragraphs (d), (e), (f), (g), and (k) of this section as further described in §§ 1502.11-1502.18 in any appropriate format.

§ 1502.11 Cover sheet.

The cover sheet shall not exceed one page. It shall include:

(a) The name of the responsible agencies including the lead agency and any cooperating agencies.

(b) The name of the proposed action that is the subject of the statement (and if appropriate the names of related cooperating agency actions), together with the State(s) and county(ies) (or the country if applicable) where the action is located.

(c) The name, address, and telephone number of the person at the agency who can supply further information.

(d) A designation of the statement as a draft, final, or draft or final supplement.

(e) A one paragraph abstract of the statement.

(f) The date by which comments must be received (computed in cooperation with EPA § 1506.10)).

§ 1502.12 Summary.

Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages.

§ 1502.13 Purpose and need.

The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the action and alternatives. Normally this section shall not exceed one page.

§ 1502.14 Alternatives including the proposed action.

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Environmental Consequences (§ 1502.15) and the Affected Environment (§ 1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharpening the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for such elimination.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate the comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the no action alternative.

(e) Identify the environmentally preferable alternative (or alternatives if two or more are equally preferable) and the reasons for identifying it. If

the alternative identified is for no action, the agency shall also identify the alternative other than no action that is environmentally preferable and the reasons for identifying it.

(f) Identify the agency's preferred alternative or alternatives if one or more exists in the draft statement and identify such alternative(s) in the final statement unless another law prohibits the expression of such a preference.

(g) Include appropriate mitigation measures not already included in the proposed action or alternatives.

§ 1502.15 Environmental consequences.

This section forms the scientific and analytic basis for the comparisons under § 1502.14. It shall consolidate the discussions of those elements required by secs. 102(2)(C) (i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of sec. 102(2)(C)(iii) as is necessary to support the comparisons. This includes the environmental impacts of the proposed action and alternatives, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposed action should it be implemented. The Council intends that preparers not cause duplication in the discussions under § 1502.14 and this section. This section shall include discussions of:

(a) Direct effects and their significance (§1508.8).

(b) Indirect effects and their significance (§ 1508.8).

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local land use plans, policies, and controls for the area concerned.

(d) The environmental effects of alternatives including the proposed action. The comparisons under § 1502.14 will be based on this discussion.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures.

(f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

(g) Means to mitigate adverse environmental impacts (if not fully covered under § 1502.14(g)).

§ 1502.16 Affected environment.

The environmental impact statement shall succinctly describe the environment of the area or areas to be affected by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.

§ 1502.17 List of preparers.

The environmental impact statement shall list the names, together with their qualifications and professional disciplines (§ 1502.6 and 1502.8), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement. Where possible the names of persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages.

§ 1502.18 Appendix.

If an agency prepares an appendix to an environmental impact statment the appendix shall:

(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference §1502.21)).

(b) Normally consist of material which substantiates any analysis fundamental to the impact statement.

(c) Normally be analytic and relevant to the decision to be made.

(d) Be circulated with the environmental impact statement or be readily available on request.

§ 1502.19 Circulation of the environmental impact statement.

Agencies shall circulate the entire draft and final environmental impact statements except as provided in § 1502.18(d) and 1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:

(a) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.

(b) Any person, organization, or agency requesting the entire environmental impact statement.

(c) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

If the agency circulates the summary and thereafter receives a timely request for the entire statement, the time for comment for that requestor only shall be extended by at least 15 days beyond the minimum period.

§ 1502.20 Tiering.

Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (§ 1508.26). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate such discussions by reference and shall concentrate on the issues specific to the subsequent action. Tiering may also be appropriate for different stages of actions. (Section 1508.26).)

§ 1502.21 Incorporation by reference.

Agencies shall incorporate material into an environmental impact statement by reference when to do so will cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference.

§ 1502.22 Incomplete or unavailable information.

Agencies dealing with gaps in relevant information including scientific uncertainty, shall always make clear that such information is lacking or that uncertainty exists.

(a) If the information is essential to a reasoned choice among alternatives and is not known and the costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.

(b) If the information is important to the decision and the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst case analysis.

§ 1502.23 Cost-benefit analysis.

If a cost-benefit analysis is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. To assess the adequacy of compliance with sec. 102(2)(B) of the Act the statement shall when a cost-benefit analysis is prepared discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities.

§ 1502.24 Methodology and scientific accuracy.

Agencies shall insure the professional, including scientific, integrity of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement.

§ 1502.25 Environmental review and consultation requirements.

To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 et seq.) the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.), the Endangered Species Act of 1972 (16 U.S.C. Sec. 1531 et seq.) and other environmental review laws.

PART 1503—COMMENTING

Sec.
1503.1 Inviting Comments.
1503.2 Duty to Comment.
1503.3 Specificity of Comments.
1503.4 Response to Comments.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1503.1 Inviting comments.

(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

(1) Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.

(2) Request the comments of appropriate State and local agencies which are authorized to develop and enforce environmental standards, or any agency which has requested that it receive statements on actions of the kind proposed.

(3) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.

(b) After preparing a final environmental impact statement an agency may request comments on it before the decision is finally made. In any case other agencies or persons may make comments before the final decision unless a different time is provided under § 1506.10.

§ 1503.2 Duty to comment.

Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved or which are authorized to develop and enforce environmental standards shall comment on statements within their jurisdiction, expertise, or authority. A Federal agency may (and a cooperating agency that is satisfied that its views are adequately reflected in the environmental impact statement would) reply that it has no comment.

§ 1503.3 Specificity of comments.

Comments on an environmental impact statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both. When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.

§ 1503.4 Response to comments.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below specifying its response in the final statement. Possible responses are to:

(1) Modify the proposed action.

(2) Develop and evaluate alternatives not previously given serious consideration by the agency.

(3) Supplement, improve, or modify its analyses.

(4) Make factual corrections.

(5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

(c) If changes are minor and are confined to the responses described in paragraphs (a)(4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (§ 1502.19). The entire document with a new cover sheet shall be filed as the final statement (§ 1506.9).

PART 1504—PREDECISION REFERRALS TO THE COUNCIL OF PROPOSED FEDERAL ACTIONS FOUND TO BE ENVIRONMENTALLY UNSATISFACTORY

Sec.
1504.1 Purpose.
1504.2 Criteria for Referral.
1504.3 Procedure for Referrals and Response.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1504.1 Purpose.

(a) This part establishes procedures for referring to the Council Federal interagency disagreements concerning proposed major Federal actions that might cause unsatisfactory environmental effects. It provides means for early resolution of such disagreements.

(b) Under section 309 of the Clean Air Act (42 U.S.C. 7609), the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of Federal activities, including actions for which environmental impact statements are prepared. If after this review the Administrator determines that the matter is "unsatisfactory from the standpoint of public health or welfare or environmental quality," section 309 directs that the matter be referred to the Council (hereafter "environmental referrals").

(c) Under section 102(2)(C) of the Act other Federal agencies may make similar reviews of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts. These reviews must be made available to the President, the Council and the public.

§ 1504.2 Criteria for referral.

Environmental referrals should only be made to the Council after concerted, timely (as early as possible in the process), but unsuccessful attempts to resolve differences with the lead

agency. In determining what environmental objections to the matter are appropriate to refer to the Council, an agency should weigh potential adverse environmental impacts, considering:

(a) Possible violation of national environmental standards or policies.

(b) Severity.

(c) Geographical scope.

(d) Duration.

(e) Importance as precedents.

(f) Availability of environmentally preferable alternatives.

§ 1504.3 Procedure for referrals and response.

(a) A Federal agency making the referral to the Council shall:

(1) Advise the lead agency at the earliest possible time that it intends to refer a matter to the Council unless a satisfactory agreement is reached.

(2) Include such advice in the referring agency's comments on the draft environmental impact statement, except when the statement does not contain adequate information to permit an assessment of the matter's environmental acceptability.

(3) Identify any essential information that is lacking and request that it be made available at the earliest possible time.

(4) Send copies of such advice to the Council.

(b) The referring agency shall deliver its referral to the Council not later than twenty-five (25) days after the final environmental impact statement has been made available to the Environmental Protection Agency, commenting agencies, and the public. Except when an extension of this period has been granted by the lead agency, the council will not accept a referral after that date.

(c) The referral shall consist of:

(1) A copy of the letter signed by the head of the referring agency and delivered to the lead agency informing the lead agency of the referral and the reasons for it, and requesting that no action be taken to implement the matter until the Council acts upon the referral. The letter shall include a copy of the statement referred to in § 1504.3(c)(2) below.

(2) A statement supported by factual evidence leading to the conclusion that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality. The statement shall:

(i) Identify any material facts in controversy and incorporate (by reference if appropriate) agreed upon facts,

(ii) Identify any existing environmental requirements or policies which would be violated by the matter,

(iii) Present the reasons the referring agency believes the matter is environmentally unsatisfactory,

(iv) Contain a finding by the agency whether the issue raised is one of national importance because of the threat to national environmental resources or policies or for some other reason,

(v) Review the steps taken by the referring agency to bring its concerns to the attention of the lead agency at the earliest possible time, and

(vi) Give the referring agency's recommendations as to what mitigation alternative, further study, or other course of action (including abandonment of the matter) are necessary to remedy the situation.

(d) Not later than twenty-five (25) days after the referral to the Council, the lead agency may deliver a response to the Council and the referring agency. If the lead agency requests more time and gives assurance that the matter will not go forward in the interim, the Council may grant an extension. The response shall:

(1) Address fully the issues raised in the referral.

(2) Be supported by evidence.

(3) Give the lead agency's response to the referring agency's recommendations.

(e) Not later than twenty-five (25) days after receipt of both the referral and any response or upon being informed that there will be no response (unless the lead agency agrees to a longer time), the Council may take one or more of the following actions:

(1) Conclude that the process of referral and response has successfully resolved the problem.

(2) Initiate discussions with the agencies with the objective of mediation with referring and lead agencies.

(3) Hold public meetings or hearings to obtain additional views and information.

(4) Determine that the issue is not one of national importance and request the referring and lead agencies to pursue their decision process.

(5) Determine that the issue should be further negotiated by the referring and lead agencies and is not appropriate for Council consideration until one or more heads of agencies report to the Council that the agencies' disagreements are irreconcilable.

(6) Publish its findings and recommendations (including where appropriate a finding that the submitted evidence does not support the position of an agency).

(7) When appropriate, submit the referral and the response together with the Council's recommendation to the President for action.

PART 1505—NEPA AND AGENCY DECISIONMAKING

Sec.

1505.1 Agency decisionmaking procedures.

1505.2 Record of decision in those cases requiring environmental impact statements.

1505.3 Implementing the decision.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1501.1 Agency decisionmaking procedures.

Agencies shall adopt procedures (§ 1507.3) to ensure that decisions are made in accordance with the policies and purposes of the Act. Such procedures shall include but not be limited to:

(a) Implementing procedures under section 102(2) to achieve the requirements of sections 101 and 102(1).

(b) Designating the major decison points for the agency's principal programs likely to have a singificant effect on the human environment and assuring that the NEPA process corresponds with them.

(c) Requiring that relevant environmental documents, comments, and responses be part of the record in formal rulemaking or adjudicatory proceedings.

(d) Requiring that relevant environmental documents, comments, and responses accompany the proposal through existing agency review process so that agency officials use the statement in making decisions.

(e) Requiring that the alternatives considered by the decision maker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decisionmaker consider the alternatives described in the environmental impact statement. If another decision document accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make available to the public before the decision is made any part of that document that relates to the comparison of alternatives.

§ 1505.2 Record of decision in those cases requiring environmental impact statements.

At the same time of its decision (or, if appropriate, its recommendation to Congress) each agency shall prepare a concise public record of decision. The record, which may be integrated into any other record prepared by the agency, including that required by OMB Circular A-95, part I, sections 6 (c) and (d), and part II, section 5(b)(4), shall state:

(a) What the decision was.

(b) If an alternative other than those designated pursuant to § 1502.14(e) has been selected, the reasons why other specific considerations of national policy overrode those alternatives.

(c) Whether all practicable means to avoid or minimize environmental harm have been adopted, and if not, why they were not. For any mitigation adopted, a monitoring and enforcement program where applicable shall be adopted and summarized.

§ 1505.3 Implementing the decision.

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (§ 1505.2(c)) and other conditions established in or during the review of the environmental impact statement and committed as part of the decision shall be implemented by the appropriate agency. The lead agency shall:

(a) Include appropriate conditions in grants, permits or other approvals.

(b) Condition funding of actions on mitigation.

(c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures proposed by any such agency and adopted by the agency making the decision.

(d) Upon request, make available to the public the results of relevant monitoring.

PART 1506—OTHER REQUIREMENTS OF NEPA

Sec.

1506.1 Limitations on actions during NEPA process.
1506.2 Elimination of duplication with State and local procedures.
1506.3 Adoption.
1506.4 Combining documents.
1506.5 Agency responsibility.
1506.6 Public involvement.
1506.7 Further guidance.
1506.8 Proposals for legislation.
1506.9 Filing requirements.
1506.10 Timing of agency action.
1506.11 Emergencies.
1506.12 Effective date.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1506.1 Limitations on actions during NEPA process.

(a) Until an agency issues a record of decision as provided in § 1505.2 (except as provided in subsection (c)), no action concerning the proposal shall be taken which would:

(1) Have an adverse environmental impact; or

(2) Limit the choice of reasonable alternatives.

(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is planning to take an action within the agency's jurisdiction that would meet either of the criteria in § 1506.1(a), then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved.

(c) While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action which may significantly affect the quality of the human environment and which is covered by the program unless such action:

(1) Is justified independently of the program;

(2) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives; and

(3) Is itself accompanied by an adequate environmental impact statement.

§ 1506.2 Elimination of duplication with State and local procedures.

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication in NEPA and comparable State and local requirements, unless they are specifically barred from doing so by some other law. Except where an agency is proceeding in the manner specified by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

(1) Joint planning processes.

(2) Joint environmental research and studies.

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint environmental assessments and joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling the requirements of those as well as Federal laws so that one document will comply with all applicable laws.

(c) To better integrate environmental impact statements into state or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned).

§ 1506.3 Adoption.

(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the agency treats the statement as a draft and recirculates it (except as provided below in paragraph (b) of this section): *And provided,* That the statement or portions thereof meets the standards for an adequate draft statement under these regulations.

(b) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

(c) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify.

§ 1506.4 Combining documents.

Any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork.

§ 1506.5 Agency responsibility.

(a) If an agency relies on an applicant to submit initial environmental information, the agency should assist the applicant by outlining the types of information required. In all cases, the agency should make its own evaluation of the environmental issues and take responsibility for the scope and content of environmental assessments.

(b) Except as provided in §§ 1506.2 and 1506.3 any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared directly by or under contract to the lead agency or where appropriate under § 1501.6(b), a cooperating agency. In the case of such contract it is the intent of these regulations that the contractor be chosen solely by the lead agency or by the lead agency in cooperation with cooperating agencies or where appropriate by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency or where appropriate the cooperating agency specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval. Nothing in this section is intended to prohibit any agency from requesting any person to submit information to it or any person from submitting information to any agency.

§ 1506.6 Public involvement.

Agencies shall: (a) Make diligent effort to involve the public in prepar-

ing and implementing their NEPA procedures.

(b) Provide public notice of NEPA-related hearings, meetings, and the availability of environmental documents by means calculated to inform those persons and agencies who may be interested or affected.

(1) In all cases the agency shall mail notice to those who have requested it on an individual action.

(2) In the case of an action with effects of national concern such notice shall include publication in the FEDERAL REGISTER and notice by mail to national organizations with interest in the matter and may include listing in the 102 Monitor.

(3) In the case of an action with effects primarily of local concern the notice may include:

(i) Notice to State and local agencies pursuant to OMB Circular A-95.

(ii) Following the affected State's public notice procedures for comparable actions.

(iii) Publication in local newspapers (in papers of general circulation rather than legal papers).

(iv) Notice through other local media.

(v) Notice to potentially interested community organizations including small business associations.

(vi) Publication in newsletters that may be expected to reach potentially interested persons.

(vii) Direct mailing to owners and occupants of nearby or affected property.

(viii) Posting of notice on and off site in the area where the action is to be located.

(c) Hold or sponsor public hearings or public meetings whenever appropriate. Criteria shall include whether there is:

(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful.

(d) Solicit appropriate information from the public.

(e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process.

(f) Make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion of intra- or interagency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action.

§ 1506.7 Further guidance.

The Council may provide further guidance concerning NEPA and its procedures including:

(a) A handbook which the Council may supplement from time to time which shall in plain language provide guidance and instructions concerning the application of NEPA and these regulations.

(b) Publication of the Council's Memoranda to Heads of Agencies.

(c) In conjunction with the Environmental Protection Agency and the publication of the 102 Monitor, notice of:

(1) Research activities;

(2) Meetings and conferences related to NEPA; and

(3) Successful and innovative procedures used by agencies to implement NEPA.

§ 1506.8 Proposals for legislation.

The NEPA process for proposals for legislation (§ 1508.16) significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress. A legislative environmental impact statement is the detailed statement required by law which shall accompany proposed legislation to the Congress. Preparation of a legislative environmental impact statement shall include consultation with appropriate agencies (which may be pursuant to OMB Circular A-19) and conform with the requirements of these regulations except as follows:

(a) There need not be a scoping process.

(b) The legislative statement shall otherwise be treated in the same manner as a draft statement except as further specified. There need not be a final environmental impact statement: *Provided*, That when any of the following conditions exist both the draft and final environmental impact statement on the legislative proposal shall be prepared and circulated as provided by sections 1503.1 and 1506.10.

(1) A Congressional Committee with jurisdiction over the proposal has a rule requiring both draft and final environmental impact statements.

(2) The proposal results from a study process required by statute (such as those required by the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) and the Wilderness Act (16 U.S.C. et seq.)).

(3) Legislative approval is sought for Federal or federally assisted construction or other projects which the agency recommends be located at specific geographic locations. For proposals requiring an environmental impact statement for the acquisition of space by the General Services Administration, a draft statement shall accompany the Prospectus or the 11(b) Report of Building or the 11(b) Report of Building Project Surveys to the Congress, and a final statement shall be completed before site acquisition.

(4) The agency decides to prepare draft and final statements.

(c) Comments on the legislative statement shall be given to the lead agency which shall forward them along with its own responses to the Congressional committees with jurisdiction.

(d) The Environmental Protection Agency may reduce the period for review required by § 1506.10 to insure that comments and responses are received by the appropriate Congressional committee prior to hearings on the proposal.

§ 1506.9 Filing requirements.

Environmental impact statements together with comments and responses shall be filed with the Environmental Protection Agency, attention Office of Federal Activities (A-104), 401 M Street SW., Washington, D.C. 20460. Statements shall be filed with EPA no earlier than they are also transmitted to commenting agencies and the public. EPA shall deliver one copy of each statement to the Council, which shall satisfy the requirement of availability to the President.

§ 1506.10 Timing of agency action.

(a) No decision on the proposed action shall be made or recorded under § 1505.2 by a Federal agency until the later of the following dates:

(1) Ninety (90) days after publication of the notice described in paragraph (d) of this section for a draft environmental impact statement.

(2) Thirty (30) days after publication of the notice described in paragraph (d) of this section for a final environmental impact statement.

Provided, That when an agency has formally established an internal appeal process, through which agencies or the public may take appeals and make their views known after preparation of the final environmental impact statement, and which provides a real opportunity to alter the decision, an administratively reviewable decision in the proposed action may be made after publication of the notice described in paragraph (d) of this section for a final environmental impact statement. This means that the period for appeal and the period prescribed by paragraph (a)(2) of this section may run concurrently. In such a case the environmental impact statement shall explain the timing and the public's right of appeal.

Provided further, That when an agency's primary purpose is the protection of public health and safety, the agency may, with the approval of the Council, adopt procedures under § 1507.3 providing for a finding to be

published in the FEDERAL REGISTER that it is necessary to waive the time requirement specified in paragraph (a)(2) of this section to preserve public health and safety.

Provided further, That when an agency's primary purpose is the protection of public health and safety and when that agency publishes proposed rules in the FEDERAL REGISTER for a period of public review prescribed by a statute the agency administers, that time period and the period prescribed under paragraph (a)(2) of this section may run concurrently.

(b) If the final environmental impact statement is filed within ninety (90) days after a draft environmental impact statement is filed with the Environmental Protection Agency, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently.

(c) Subject to paragraph (e) of this section agencies shall allow not less than 45 days for comments on draft statements.

(d) The Environmental Protection Agency shall publish a notice in the FEDERAL REGISTER each week of the environmental impact statements filed with the Environmental Protection Agency the preceding week. The date of publication of this notice shall be the date from which the minimum time periods of this section shall be calculated.

(e) The lead agency may extend prescribed periods. The Environmental Protection Agency may upon a showing by the lead agency of compelling reasons of national policy reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency. (Also see § 1507.3(d).) If the lead agency does not concur, the matter shall be referred to CEQ for resolution. When the Environmental Protection Agency reduces or extends any period of time it shall notify the Council.

§ 1506.11 Emergencies.

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency proposing to take the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such waivers to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

§ 1506.12 Effective date.

The effective date of these regulations is eight months after their final publication in the FEDERAL REGISTER.

(a) These regulations shall apply to the fullest extent practicable to ongoing activities and environmental documents begun before the effective date. These regulations do not apply to an environmental impact statement if the draft statement was filed before the effective date of these regulations. No completed environmental documents need be redone by reason of these regulations. Until these regulations are applicable, the Council's guidelines published in the FEDERAL REGISTER of August 1, 1973, shall continue to be applicable. In cases where these regulations are applicable the guidelines are superseded. However, nothing shall prevent an agency from proceeding under these regulations at an earlier time.

(b) NEPA shall continue to be applicable to actions begun before January 1, 1970, to the fullest extent possible.

PART 1507—AGENCY COMPLIANCE

Sec.
1507.1 Compliance.
1507.2 Agency Capability to Comply.
1507.3 Agency Procedures.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1507.1 Compliance.

All agencies of the Federal Government shall comply with these regulations. It is the intent of these regulations to allow each agency flexibility in adapting its implementing procedures authorized by § 1507.3 to the requirements of other applicable laws.

§ 1507.2 Agency capability to comply.

Each agency shall be capable (in terms of personnel and other resources) of complying with the requirements enumerated below. Such compliance may include use of other's resources, but the using agency shall itself have sufficient capability, at minimum, to evaluate what others do for it. Agencies shall:

(a) Fulfill the requirements of Sec. 102(2)(A) of the Act to utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on the human environment. Agencies shall designate a person to be responsible for overall review of agency NEPA compliance.

(b) Identify methods and procedures required by Sec. 102(2)(B) to insure that presently unquantified environmental amenities and values may be given appropriate consideration.

(c) Prepare adequate environmental impact statements pursuant to Sec. 102(2)(C) and comment on statements in the areas where the agency has jurisdiction by law or special expertise or is authorized to develop and enforce environmental standards.

(d) Study, develop, and describe alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. This requirement of Sec. 102(2)(E) extends to all such proposals, not just the more limited scope of Sec. 102(2)(C)(iii) where the discussion of alternatives is confined to impact statements.

(e) Comply with the requirements of Sec. 102(2)(H) that the agency initiate and utilize ecological information in the planning and development of resource-oriented projects.

(f) Fulfill the requirements of sections 102(2)(F), 102(2)(G), and 102(2)(I), of the Act and of Executive Order 11514, Protection and Enhancement of Environmental Quality, Sec. 2.

§ 1507.3 Agency procedures.

(a) Not later than eight months after publication of these regulations as finally adopted in the FEDERAL REGISTER, or five months after the establishment of an agency, whichever shall come later, each agency shall as necessary adopt procedures to supplement these regulations. When the agency is a department major subunits are encouraged (with the consent of the department) to adopt their own procedures. Such procedures shall not paraphrase these regulations. They shall confine themselves to implementing procedures. Each agency shall consult with the Council while developing its procedures and before publishing them in the FEDERAL REGISTER for comment. The procedures shall be adopted only after an opportunity for public review and after review by the Council for conformity with the Act and these regulations. The Council shall complete its review within 30 days. Once in effect they shall be filed with the Council and made readily available to the public. Agencies are encouraged to publish explanatory guidance for these regulations and their own procedures. Agencies shall continue to review their policies and procedures and to revise them as necessary to ensure full compliance with the purposes and provisions of the Act.

(b) Agency procedures shall comply with these regulations except where compliance would be inconsistent with statutory requirements and shall include:

(1) Those procedures required by §§ 1501.2(d), 1502.9(c)(3), 1503.1(c), 1505.1, 1506.6(e), and 1508.4.

(2) Specific criteria for and identification of those typical classes of action:

(i) Which normally do require environmental impact statements.

(ii) Which normally do not require either an environmental impact statement or an environmental assessment (categorical exclusions (§ 1508.4)).

(iii) Which normally require environmental assessments but not necessarily environmental impact statements.

(c) Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for proposed actions that are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes, in order that the unclassified portions can be made available to the public.

(d) Agency procedures may provide for periods of time other than those presented in § 1506.10 when necessary to comply with other specific statutory requirements.

PART 1508—TERMINOLOGY AND INDEX

Sec.

1508.1 Terminology.
1508.2 Act.
1508.3 Affecting.
1508.4 Categorical Exclusion.
1508.5 Cooperating Agency.
1508.6 Council.
1508.7 Cumulative Impact.
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1508.19 Mitigation.
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1508.21 Notice of Intent.
1508.22 Proposal.
1508.23 Referring Agency.
1508.24 Scope.
1508.25 Significantly.
1508.26 Tiering.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*), Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1508.1 Terminology.

The terminology of this part shall be uniform throughout the Federal Government.

§ 1508.2 Act.

"Act" means the National Environmental Policy Act, as amended (42 U.S.C. 4321, et seq.) which is also referred to as "NEPA."

§ 1508.3 Affecting.

"Affecting" means will or may have an effect on.

§ 1508.4 Categorical exclusion.

"Categorical Exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§ 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact is needed. Any such procedures shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

§ 1508.5 Cooperating agency.

"Cooperating Agency" means any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in § 1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe may by agreement with the lead agency become a cooperating agency.

§ 1508.6 Council.

"Council" means the Council on Environmental Quality established by Title II of the Act.

§ 1508.7 Cumulative impact.

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

§ 1508.8 Effects.

"Effects" include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

§ 1508.9 Environmental assessment.

"Environmental Assessment":

(a) Means a public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of such a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by sec. 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted. Most environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted. Most environmental assessments do not exceed several pages in length.

§ 1508.10 Environmental document

"Environmental Document" includes the documents specified in §§ 1508.9, 1508.11, 1508.13 and 1508.21.

§ 1508.11 Environmental impact statement

"Environmental Impact Statement" means a detailed written statement as required by Sec. 102(2)(C) of the Act.

§ 1508.12 Federal agency.

"Federal agency" means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office.

§ 1508.13 Finding of no significant impact.

"Finding of No Significant Impact" means a document by a Federal

agency briefly presenting the reasons why an action, not otherwise excluded (§ 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (§ 1501.7(a)(5)).

§ 1508.14 Human environment.

"Human Environment" shall be interpreted comprehensively to include the natural and physical environment and the interaction of people with that environment. (See the definition of "effects" (§ 1508.8).) This means that exclusively economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

§ 1508.15 Lead agency.

"Lead Agency" means the agency or agencies which have prepared or have taken primary responsibility to prepare the environmental impact statement.

§ 1508.16 Legislation.

"Legislation" includes a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations.[1] The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency which has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.

§ 1508.17 Major Federal action.

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (§ 1508.25). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action. If a Federal program is delegated or otherwise transferred to State or local government, unless Congress intended otherwise, the Federal agency shall continue to be responsible for compliance with the Act and shall insure the preparation of environmental impact statements if they would be required but for the delegation or transfer. If the Federal agency may legally require the State or local agency to follow an environmental impact statement process, as a condition of the delegation or transfer, it shall do so. If not, the Federal agency shall prepare the statements (except as provided in § 1506.5).

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (§§ 1506.8, 1508.16). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of federal resources, upon which future agency actions will be based.

(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

§ 1508.18 Matter.

"Matter" includes for purposes of Part 1504:

(a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in Section 309(a) of the Clean Air Act (42 U.S.C. 7609).

(b) With respect to all other agencies, any proposed major federal action to which Section 102(2)(C) of NEPA applies.

§ 1508.19 Mitigation.

"Mitigation" includes:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments.

§ 1508.20 NEPA process.

"NEPA process" means all measures necessary for compliance with the requirements of Section 2 and Title I of NEPA.

§ 1508.21 Notice of intent.

"Notice of Intent" means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.

(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.

§ 1508.22 Proposal.

"Proposal" refers to that stage in the development of an action when an agency subject to the Act has a goal and is actively considering one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed (§ 1502.5) so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists.

§ 1508.23 Referring agency.

"Referring agency" means the federal agency which has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public

[1] The Council in consultation with OMB had been prepared to propose this wording and § 1508.12 for comment. Thereafter *Sierra Club* v. *Andrus* (D.C. Cir. No. 75-1871, May 15, 1978) was decided. We would appreciate comment on the implications of that case for these provisions.

health or welfare or environmental quality.

§ 1508.24 Scope.

Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (§§ 1502.20 and 1508.26). In scoping environmental impact statements agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

(1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

(i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

(b) Alternatives, which include: (1) No action alternative. (2) Other reasonable courses of actions. (3) Mitigation measures (not in the proposed action).

(c) Impacts, which may be: (1) Direct. (2) Indirect. (3) Cumulative.

§ 1508.25 Significantly.

"Significantly" as used in NEPA requires considerations of both context and intensity:

(a) *Context.* This means that the significance of an action must be analyzed in several contexts such as society as a whole (global, national), the affected region, the affected interests, and the locality. Significant varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity.* This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic sites, park lands, prime farm lands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) Whether the action may have a significant adverse effect on an area or site listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) Whether the action may have a significant adverse effect on the habitat or an endangered or threatened species that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

§ 1508.26 Tiering.

"Tiering" refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the gereral discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as design detail and environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

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FRIDAY, JUNE 9, 1978
PART III



federal register

DEPARTMENT OF LABOR

Employment Standards Administration

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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 Secretarty 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 Secretarty 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 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 effetive 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 Standings, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decisions.

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.

Idaho	
ID78-5017	Apr. 7, 1978.
New Jersey	
NJ77-3092	Oct. 7, 1977.
NJ78-3009	Apr. 21, 1978.
Ohio	
OH78-2002	Feb. 10, 1978.
OH78-2006	Feb. 24, 1978.
OH78-2059	May 5, 1978.
OH78-2055; OH78-2056; OH78-2057; OH78-2058.	May 12, 1978.
South Dakota	
SD78-5023	Apr. 21, 1978.
Utah	
UT78-5012	Mar. 17, 1978.
Virginia	
VA78-3041	May 5, 1978.
Wisconsin	
WI77-2111	Sept. 23, 1977.
WI77-2117	Aug. 19, 1977.
West Virginia	
WV77-3083	Sept. 30, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama	
AL77-1089 (AL78-1053)	July 8, 1977.
Florida	
FL76-1014 (FL78-1054)	Jan. 23, 1976.
Oklahoma	
OK77-4270 (OK78-4057); OK77-4273 (OK78-4054); OK77-4284 (OK78-4056).	Sept. 30, 1977.
OK78-4022 (OK78-4055)	Mar. 17, 1978.
South Dakota	
SD77-5086 (SD78-5102)	Sept. 23, 1977.
West Virginia	
WV77-3101 (WV78-3018)	July 22, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 2d day of June 1978.

HERBERT GOLDSTEIN,
Acting Assistant Administrator,
Wage and Hour Division.

DECISION #ID78-5017 - Mod. #3
(43 FR 14841 - April 7, 1978)
Statewide Idaho

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Roofers:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties	$9.69	.60	.75		.02

DECISION #NJ77-3092 - Mod. #5
(42 FR 54726 - October 7, 1977)
Bergen, Essex, Hudson, & Passaic Counties, New Jersey

Drop:					
All classifications and wage rates for Plumbers, Pipefitters, Steamfitters, and Gasfitters.					
Add:					
Pipefitters:					
Bergen & Hudson Counties and the city of Passaic in Passaic County	$11.50	1.00	1.00	1.00	.25
Plumbers:					
Area 1	11.50	.70	.75	1.00	.20
Area 2	10.55	.76	.75	1.00	.02
Area 3	12.45	.75	1.35		.20
Area 4	11.50	.65	1.00	1.00	

AREA COVERED BY PLUMBERS

AREA 1 - Bergen (Alpine, Bergenfield, Bogota, Carlstadt, Closter, Cresskill, Demarest, Dumont, East Rutherford, Emerson, Englewood Cliffs, Hackensack, Harrington Park, Hasbrouck Heights, Haworth, Hillsdale, Leonia, Little Ferry, Lydhurst, Maywood, Montvale, Moonachie, North Arlington, Northvale, Norwood, Old Tappan, Oradell, Palisades Park, Paramus, Park Ridge, Ridgefield Park, River Edge, Rivervale, Rochelle Park, Rockleigh, Rutherford, Saddle Brook, Saddle River, South Hackensack, Teaneck, Tenafly, Teterboro, Upper Saddle River, Warren Point, Washington Twp., Westwood, Woodcliff Lake and Wood-Ridge) County.

AREA 2 - Bergen (Cliffside Park, Edgewater, Fairview, Fort Lee, Morsemere and Ridgefield) and Hudson (Guttenberg, North Bergen, Secaucus, Weehawken and West New York) Counties.

AREA 3 - Hudson (Cities of Hoboken, Bayonne and Jersey City) County.

AREA 4 - Bergen (Lodi, Garfield, & Wallington) County and the City of Passaic in Passaic County.

DECISION #NJ77-3092 - Mod. #5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers & Gasfitters:					
Essex (except all of the Oranges, Livingston, & Maplewood) & Hudson (Harrison, East Newark, & Kearny) Counties	$13.425	.65	1.00		.15
Plumbers & Pipefitters:					
Area 1	11.38	.65	1.00	1.138	.05
Area 2	11.00	.675	1.36	1.00	.04

AREA COVERED BY PLUMBERS & PIPEFITTERS

AREA 1 - Essex (Orange, West Orange, East Orange, South Orange, Maplewood and Livingston) County

AREA 2 - That portion of Passaic County north of Piaget Ave. in Clifton and, additionally, the following communities in Bergen County: Allendale, Elmwood Park, Fair Lawn, Franklin Lakes, Glen Rock, Hohokus, Mahwah, Midland Park, Oakland, Ramsey, Ridgewood, Saddle Brook, Saddle River, Waldwick, & Wyckoff.

Plumbers & Steamfitters:					
Essex (Short Hills & Millburn) County:	12.67	.65	1.00	.75	.10
Essex (remainder of County) County:	11.25	.78	1.01	1.13	.06
Change:					
Bricklayers, Stonemasons, Cement Masons & Plasterers:					
Area 4					
Cement Masons	11.35	.75	1.00		
Plasterers	11.35	.75	1.00		.05
Electricians & Cable Splicers:					
Other residential construction:					
Essex County	13.24	9%	12%		
Laborers:					
Area 3					
Group 1	8.85	.45	.55		.07
Group 2	9.10	.45	.55		.07
Line Construction :					
Essex County:					
Linemen, Cable Splicers, Line Equipment operators, Line Truck Operators & Groundmen	13.24	9%	12%		3/4 of 1%

MODIFICATIONS P. 3

DECISION #NJ77-3092 - Mod. #5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Bergen & Passaic Counties:					
New & Old construction of one & two family houses:					
Painters & Tapers	$ 8.80	1.00	1.80		.06
Other residential construction:					
Painters & Tapers	10.50	1.00	1.80		.06
Steel Outside	11.50	1.00	1.80		.06
Spray & Sandblasting	12.05	1.00	1.80		.06
Rollers on vitreous and/or exotic coatings	12.05	1.00	1.80		.06
Essex & Hudson (West half of County) Counties:					
Painters on New Construction and Major Alterations	10.30	.70	.60	.30	.05
Painters on Repaint Work	9.35	.70	.60	.30	.05
Spraying or application of hazardous or dangerous materials on repaint work	9.95	.70	.60	.30	.05
Exterior work exceeding 3 stories in height for painting of open structurl steel and on interior work which requires painting higher than 20' above the ground or floor	10.45	.70	.60	.30	.05
Repaint work as described above	9.50	.70	.60	.30	.05
Spraying or application of hazardous or dangerous materials	10.90	.70	.60	.30	.05
Roofers:					
Bergen & Passaic Counties:					
Slate & Tile	10.25	.80	1.30		
Slate & Tile helpers	8.20	.80	1.30		
Essex Counties:					
Composition, Damp, & Waterproofing	12.57	.80	1.00		
Hudson County:					
Composition, Dump, & Waterproofing:					
West of Hackensack River	12.57	.80	1.00		
Soft Floor Layers	9.09	6%	5%+.50		

MODIFICATIONS P. 4

DECISION #NJ77-3092 - Mod. #5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Essex County:					
Group 1	$ 9.12	m	1.03	i+j	
Group 2	9.35	m	1.03	i+j	
Group 3	9.40	m	1.03	i+j	
Group 4	9.50	m	1.03	i+j	
Group 5	9.60	m	1.03	i+j	

FOOTNOTE:
m. Employer contribution of $1.94 per month per employee to Health & Welfare funds

DECISION #NJ78-3009 - Mod. #1
(42 FR 17223 - April 21, 1978)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and 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 4					
Cement Masons	$11.35	.75	1.00		
Plasterers	11.35	.75	1.00		.05
Electricians & Cable Splicers:					
Zone 1	13.24	9%	12%		
Laborers, Building Construction:					
Zone 3					
Regular Laborers	8.85	.45	.55		.07
Mortar mixers, scaffold men, pneumatic hammer operators, bell men & carpenter tenders	9.10	.45	.55		.07
Line Construction:					
Zone 1					
Linemen, cable splicers, line equipment operators, line truck operators, groundmen, & welders	13.24	9%	12%		3/4 of 1%
Marblesetters, Terrazzo workers & Tilesetter Finishers:					
Zone 2					
Tilesetters Finishers	9.25	.84	.75		
Painters:					
Zone 1					
Painters and Tapers	10.50	1.00	1.80		.06
Steel outside	11.50	1.00	1.80		.06
Spray and Sandblasting	12.05	1.00	1.80		.06
Rollers on vitreous coatings, exotic coatings, insul-rock ceilings, stacks and storage tanks	12.05	1.00	1.80		.06
Zone 2					
Brush and Roller	9.85	.85	.90		
Spray	10.75	.85	.90		
Repaint work	9.45	.85	.90		
Zone 3					
Painters on new construction and major alterations	10.30	.70	.60	.30	.05
Painters on repaint work	9.35	.70	.60	.30	.05
Spray or application of hazardous or dangerous materials on repaint work	9.95	.70	.60	.30	.05

DECISION #NJ78-3009 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters; Cont'd.					
Zone 3					
Exterior work exceeding 3 stories in height for painting of open structural steel and tanks under 3 stories in height except flat tanks on the ground and on interior work which requires painting higher than 20' above the ground or floor (this shall not be applicable to machinery or equipment located therein)	$10.45	.70	.60	.30	.05
Repaint work as described above	9.50	.70	.60	.30	.05
On bridges, television and radio towers, structural steel and tanks above 3 stories in height (30' or over), smoke stacks, water towers, sandblasting, steam-cleaning, spraying or application of hazardous materials	10.90	.70	.60	.30	.05
Plumbers & Gasfitters:					
Essex (except all of the Oranges Livingston, & Maplewood) & Hudson (Harrison, East Newark & Kearny) Counties	13.425	.65	1.00		.15
Plumbers & Steamfitters:					
Zone 2	12.67	.65	1.00	.75	.10
Zone 4	12.42	.65	1.00	1.00	.15
Roofers:					
Zone 3					
Composition, Damp, & Waterproofing	12.57	.80	1.00		
Zone 6					
Composition, Damp & Waterproofing	12.55	1.00	.65		
Slate & Tile	12.675	1.00	.65		
Soft Floor Layers	10.54	6%	5%+.50		

MODIFICATIONS P. 7

DECISION #NJ78-3009 - Mod. #1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Zone 2					
Group 1	$ 9.12	n	1.03	j+k	
Group 2	9.35	n	1.03	j+k	
Group 3	9.40	n	1.03	j+k	
Group 4	9.50	n	1.03	j+k	
Group 5	9.60	n	1.03	j+k	
Drop:					
Zones 1, 2, 3, 4, & 5 under Pipefitters classification on page 20 of above given decision.					
Add:					
Plumbers:					
Zone 1	11.50	.70	.75	1.00	.20
Zone 2	10.55	.76	.75	1.00	.02
Zone 3	12.45	.75	1.35		.20
Zone 4	12.51	.65	1.00	.85	.16
Zone 5	12.36	.73	.83	1.25	.10
FOOTNOTES:					
n. Employer contribution of $124 per month per employee to Health & Welfare Funds.					
DECISION NO. OH78-2002 - Mod. #2 (43 FR 5969 - February 10, 1978) Mahoning & Trumbull Counties, Ohio					
CHANGE:					
BRICKLAYERS:					
Trumbull Co.	$11.99	.75	.50		.02
CARPENTERS:					
Commercial Building	10.74	1.17	1.10		.05
Residential	9.67	1.17	1.10		.05
ELECTRICIANS:					
Mahoning (Milton Twp.) & Trumbull (Excluding Hubbard & Liberty Twps.) Cos.	13.39	.60	7%		.7%
LINE CONSTRUCTION:					
Mahoning (Excluding Smith Twp.) & Trumbull Cos.:					
Linemen; Cable splicers; Operator - pole digging equipment	14.07	.45	3%		½%
MILLWRIGHTS; Piledrivermen	11.53	1.17	1.10		.05
SOFT FLOOR LAYERS:					
Commercial Building	10.20	1.17	1.10		.05
Residential	9.18	1.17	1.10		.05

MODIFICATIONS P. 8

DECISION #OH78-2006 - MOD. #2 (43 FR 7915 - February 24, 1978) Allen, Auglaize, Crawford, Defiance, Erie, Hancock, Hardin, Henry, Huron, Knox, Logan, Marion, Mercer, Morrow, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert, Williams, Wood, & Wyandot Counties, Ohio	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS: Crawford, Hardin, Knox, Marion, & Morrow Cos.	$12.47	.50	1.00		.02
BRICKLAYERS; Marble Setters; Terrazzo Workers; & Tile Setters: Allen, Auglaize, Mercer, & Van Wert Cos.	11.90		.45		.02
ELECTRICIANS: Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge, & Salem) Cos.	12.21	.45	3%+.37		.04
Crawford, Huron (Twps. of Richmond, New Haven, Ripley, & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), Marion, Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt, & Antrim) Cos.	12.30	.45	3%+.50		.1%
Erie, & Huron (Twps. of Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London) Cos.	12.70	.73	3%		.1%
IRONWORKERS: Crawford, Hardin, Knox, Logan (Rem. of Co.), Marion, Morrow & Wyandot Cos.	11.55	.90	1.95		.05
Defiance, Paulding, Putnam, Van Wert, & Williams Cos.	11.55	.90	1.45		.02

DECISION #OH78-2006 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Erie, Huron, & Richland Cos.:					
Marble Setters' Finishers	$11.76		1.50		
Terrazzo Workers' Finishers	12.62		1.20		
Tile Setters' Finishers	12.29		1.50		
PAINTERS:					
Erie, Hancock, Huron, Sandusky, Seneca, & Wyandot Cos.:					
Old Commercial					
Brush; Roller; Wash; Clean Drywall; Paperhanging; 30' to 60'	9.40	.50	.70		$50.00p/y
60' or over	9.65	.50	.70		50.00p/y
Sandblasting; Spray; Swing Stage; Boatswain Chair; Needle Beam	10.50	.50	.70		50.00p/y
Hazardous Work & Material; Stacks, Tanks, Towers over 40' in ht.	9.90	.50	.70		50.00p/y
New Commercial	10.40	.50	.70		50.00p/y
Brush; Roller; Wash; Clean	10.15	.50	.70		50.00p/y
Drywall; Paperhanging	10.40	.50	.70		50.00p/y
Structural Steel; 30' to 60'	10.60	.50	.70		50.00p/y
60' & over	11.00	.50	.70		50.00p/y
Sandblast; Spray; Swing Stage; Needlebeam; Boatswain Chair	10.65	.50	.70		50.00p/y
Hazardous Work & Material; Stacks, Tanks, & Towers over 40' in ht.	11.15	.50	.70		50.00p/y
LINE CONSTRUCTION:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge, & Salem) Cos.:					
Linemen	12.53	.50	3%		½%
Groundman; Truck Drivers	8.11	.50	3%		½%
Equipment Operators	11.28	.50	3%		½%

DECISION #OH78-2006 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Crawford, Huron (Twps. fo Richmond, New Haven, Ripley, & Greenwich), Knox (Twps. of Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson), Marion, Morrow, Richland, & Wyandot (Twps. of Sycamore, Crane, Eden, Pitt, & Antrim) Cos.:					
Linemen; Equipment Operators	$12.30	.45	3%+.50		½%
Line Truck Drivers	8.00	.45	3%+.50		½%
Groundman	7.38	.45	3%+.50		½%
Erie, Huron (Twps. of Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London) Cos.:					
Linemen; Equipment Operators; Cable Splicers	12.70	.73	3%		½%
Beginning Truck Driver Groundman; Beginning Groundman	6.985	.73	3%		½%
Advanced Truck Driver (winch) Groundman; Advanced Groundman (over 2 years' experience)	8.255	.73	3%		½%
ADD:					
Plasterers' Tenders	10.83	.65	.55		.11
DECISION #OH78-2055 - MOD. #1 (43 FR 20671 - May 12, 1978) Fulton & Lucas Counties Ohio					
ADD:					
Lucas County:					
Plasterers' Tenders	$10.83	.65	.55		.11

DECISION #OH78-2056 - MOD. #2
(43 FR 20673 - May 12, 1978)
Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Geauga, Greene, Hamilton, Highland, Lawrence, Licking, Madison, Meigs, Miami, Montgomery, Muskingum, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, and Warren Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS:					
Delaware, Fairfield, Fayette, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, Ross & Union Cos.	$12.47	.50	1.00		.02
BOILERMAKERS:					
Geauga Co.	12.98	.60	1.20		.03
BRICKLAYERS; Caulkers; Cleaners; Marble Setters; Pointers; Stonemasons; Terrazzo Workers; & Tile Setters:					
Brown, Butler, Clermont, Hamilton, Preble (Twps. of Dixon, Israel, Lanier, Somers, & Gratis), & Warren Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	12.945	.55	.35		.02
Marble Setters	12.085	.55	.35		
Terrazzo Workers & Tile Setters	12.035	.55	.35		
Fayette, Pike & Ross Cos.:					
Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons	12.20				
Gallia & Meigs Cos.	11.65	.50			
Geauga County	13.02	.60	1.00		
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Brown, Butler, Clermont, Clinton, Hamilton & Warren Cos.:					
Carpenters; Piledrivermen	12.20	.60	.65		.075
Millwrights	12.14	.50	1.10		.10

DECISION #OH78-2056 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CEMENT MASONS:					
Adams, Lawrence (excluding Fayette, Union, & Rome Twps.), Pike, & Scioto Cos.	$12.52		.60		
Geauga Co. (Rem. of Co.)	13.02	.60	1.00		
ELECTRICIANS:					
Brown, Clermont & Hamilton Cos.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House	12.50	.70	3%+.60		3%
18 to 21 mi. radius from Hamilton Co. Court House	12.80	.70	3%+.60		3%
21 to 25 mi. radius from Hamilton Co. Court House	12.90	.70	3%+.60		3%
Over 25 mi. radius from Hamilton Co. Court House	13.05	.70	3%+.60		3%
Fayette, Highland, Pickaway (S. part), Pike (N. part), & Ross Cos.	12.35	.40	3%		.02
Geauga Co. (Auburn, Middlefield, Parkman, & Troy Twps.)	13.39	.60	7%		.7%
Shelby Co.	12.21	.45	3%+.37		.04
GLAZIERS:					
Adams, Brown, Butler (Hamilton & Vic.), Clermont, Clinton (Southern part), Hamilton, Highland (Part), & Warren (Lebanon & south) Cos.	12.10		.60		.01
Champaign, Butler (excluding Hamilton & Vic.), Clark, Clinton (Northern part), Darke, Fayette (Eastern part), Greene, Highland (Part), Miami, Montgomery, Preble, Shelby (Southern part), & Warren (North of Lebanon) Cos.	10.53		.70		.01
IRONWORKERS:					
Champaign (Rem. of Co.), Clark (E. ½), Fayette (Part), Highland (E. 1/5), Muskingum, Perry, Pike (Part), & Ross Cos.	11.55	.90	1.95		.05
Delaware, Fairfield, Licking, Madison, Pickaway, & Union Cos.	11.45	.90	1.95		.05
Franklin Co.	11.30	.90	1.95		.05
Meigs Co.	11.67	.75	.85		.01

DECISION #OH78-2056 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LATHERS:					
Clermont, Hamilton, Highland, & Warren (S. ½) Cos.	$13.32		.25		.025
Lawrence Co.	11.725		.01		
LINE CONSTRUCTION:					
Brown, Clermont, & Hamilton Cos.:					
Linemen up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati	12.50	.70	3%+.60		½%
Linemen over 18 to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati	12.80	.70	3%+.60		½%
Linemen over 21 to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati	12.90	.70	3%+.60		½%
Linemen over 25 mi. radius from Hamilton Co. Court House, Cincinnati	13.05	.70	3%+.60		½%
Geauga (Auburn, Middlefield, Parkman, & Troy Twps.):					
Linemen; Cable Splicers; Operator pole digging equipment	14.07	.45	3%		½%
Groundmen 1st 6 mos.	7.035	.45	3%		½%
Groundmen 2nd 6 mos.	8.44	.45	3%		½%
Groundmen 2nd yr.	9.85	.45	3%		½%
Groundmen 3rd yr.	10.55	.45	3%		½%
Groundmen over 3 yrs.	11.26	.45	3%		½%
Shelby Co.:					
Linemen	12.53	.50	3%		½%
Groundmen; Truck Drivers	8.11	.50	3%		½%
Equipment Operators	11.28	.50	3%		½%
MARBLE SETTERS' FINISHERS; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Adams, Brown, Butler, Clermont, Fayette, Gallia, Hamilton, Highland, Lawrence, Meigs, Pike, Ross, Scioto, & Warren Cos.:					
Marble Setters' Finishers	10.885				
Marble Sanders; Polishers; Stockmen; Waxers; & Sawyers	11.05				

DECISION #OH78-2056 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Terrazzo Workers' Finishers; & Grinders	$10.835				
Terrazzo Base Grinders (While operating Base Grinding Machine)	11.255				
Tile Setters' Finishers	10.785				
Geauga Co.:					
Marble Setters' Finishers	11.76		1.50		
Terrazzo workers' Finishers	12.62		1.20		
Tile Setters' Finishers	12.29		1.50		
PAINTERS:					
Brown, Clermont, & Hamilton Cos.:					
Commercial:					
Brush	12.35		.25		
Spray	12.75		.25		
Industrial:					
Brush	12.50		.25		
Spray	12.90		.25		
Butler & Warren Cos.:					
Commercial:					
Brush	10.58				
Spray	11.08				
Industrial:					
Brush	10.73				
Spray	11.23				
PLASTERERS:					
Adams, Lawrence (except Twps. of Fayette, Union, & Rome), Pike & Scioto Cos.	12.52		.60		
Brown, Butler, Clermont, Hamilton, & Warren Cos.	13.095		.50		.02
Geauga County	13.02	.60	1.00		
PLUMBERS; Steamfitters:					
Adams, Gallia, Highland, Lawrence, Pike, & Scioto Cos.:					
Within 10 mi. radius of Portsmouth	12.47	.55	.75		
10 - 20 mi. radius of Portsmouth	12.72	.55	.75		
20 - 35 mi. radius of Portsmouth	12.82	.55	.75		
Over 35 mi. radius of Portsmouth	13.07	.55	.75		

DECISION #OH78-2056 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Meigs Co.	$11.73	.52	.60		.045
ROOFERS:					
Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, & Shelby Cos.:					
Slate, Tile, & Asbestos	11.72	.80	.50		
Composition, Damp & Waterproof Workers	11.50	.80	.50		
LABORERS:					
Brown, Clermont, Clinton, & Hamilton Cos.:					
GROUP 1	10.85	.60	.50		.05
GROUP 2	10.95	.60	.50		.05
GROUP 3	11.00	.60	.50		.05
GROUP 4	11.05	.60	.50		.05
GROUP 5	11.20	.60	.50		.05
GROUP 6	11.35	.60	.50		.05
GROUP 7	11.60	.60	.50		.05
GROUP 8	10.32	.60	.50		.05
GROUP 9	10.47	.60	.50		.05
Ross Co.:					
Brick tenders; Stonemasons' tenders; Plasterers' tenders; Mortar mixer & ops.; Cement masons' tenders; All scaffold builders (Swinging scaffolds), Jackhammer ops.; Air or electrical pneumatic tool ops.; Power driven tools; Power buggy ops.; Fork lift ops.; Power wheelbarrow ops.; Asphalt & blacktop rakers; Wall wrecker & bar man on demolition; Sandblasting; Welders on demolition; Gunnite nozzle man; Wagon & churn drill ops.; Concrete saw ops.; Brush feeders on pulverizers; Pipe layers; Bottom man; Laser gun; Burners; Sandblasting of concrete; Vibrator man; Carpenters' tenders	9.06	.55	.40		.05

DECISION #OH78-2056 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Common laborers; Pouring of all concrete; Cleaning debris; Clean-up incl. vacuum cleaning; Landscape; Sod layers; Loading & unloading all trucks; Handling & conveying all materials; Washing of all windows; A man on bucket pouring concrete; Conveyor belt; All water pumps up to & incl. 3" intake	$8.86	.55	.40		.05
TRUCK DRIVERS:					
Adams, Brown, Highland, Lawrence (W. of Coal Grove & W. of St. Rte #75), Pike, Ross, & Scioto Cos.:					
Jeep; Station wagons; Pickups; Fuel trucks; Dumps to & incl. 2 tons; Bus drivers (incl. all equipment used for hauling men & materials)	8.96	21.50a			
Dumps over 2 tons; Tandems; Semi-tractor; Lowboys; Fork lifts (incl. mason tending work); Euclids	9.88	21.50a			
OMIT:					
TRUCK DRIVERS:					
Gallia, Lawrence (E. of Ohio St. Rte #75), & Meigs Cos.					
ADD:					
TRUCK DRIVERS:					
Gallia, Lawrence (E. of Ohio St. Rte #75), & Meigs Cos.					

DECISION NO. OH78-2056 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Gallia, Lawrence (E. of Ohio St. Rte #75), & Meigs Cos.:					
Truck helpers; pickups; Station wagons; Panel trucks; Yardmen; Warehousemen; Flatbody material truck (straight job); Greasers; Washers; Firemen; Gas pump attendants; Dump trucks (up to 5 cubic yards)	$ 9.84	93.17d	60.67d	1.00	
Tank trucks (straight)	9.94	93.17d	60.67d	1.00	
Dump trucks (5 cu. yds. & over); Semi-dump trucks; Semi-trailers (whether flat, rack or pole & hauled or pushed by truck or tractors); Agitator or mixer trucks (up to 5 cu. yds.); Tank truck (semi)	10.09	93.17d	60.67d	1.00	
Low boy trailers; Winch trucks; Fork trucks; Distributor trucks (front end & back end); Truck crane; Monorail truck	10.14	93.17d	60.67d	1.00	
Material checker & receiver	10.19	93.17d	60.67d	1.00	
Agitator or mixer truck (5 cu. yds. & over)	10.24	93.17d	60.67d	1.00	
Mechanic's helper	10.19	93.17d	60.67d	1.00	
Mechanic	10.49	93.17d	60.67d	1.00	
Tri-axle dump trucks; Hydraulic lift tailgate truck & farm type tractors; End dumpsters; Turnarockers; Ross carriers; Athey wagon or similar equipment; A-frame; Hydrolift; Dual purpose trucks	10.49	93.17d	60.67d	1.00	

DECISION #OH78-2057 - MOD. #1
(43 FR 20685 - May 12, 1978)
Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$12.98	.60	1.20		.03
BRICKLAYERS; Stonemasons:					
Ashtabula Co.	11.21	.95	.70		
Cuyahoga Co.	12.65	1.05	1.20		.01
Lake Co.	13.02	.60	1.00		
Lorain Co.	12.85		.60	f	.01
CEMENT MASONS:					
Ashtabula Co.	11.21	.95	.70		
Lake Co.	13.02	.60	1.00		
Lorain Co.	12.85		.60	f	.01
ELECTRICIANS:					
Ashtabula Co. (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor)	13.39	.60	7%		.7%
LINE CONSTRUCTION:					
Ashtabula Co. (Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor); Portage Co. (Twps. of Charleston, Edinburgh, Freedom, Hiram, Nelson, Palmyra, Paris, & Windom):					
Cable Splicer op.; Linemen; Pole Digging Equipment op.	14.07	.45	3%		½%
Groundmen:					
Over 3 yrs.	11.26	.45	3%		½%
3rd yr.	10.55	.45	3%		½%
2nd yr.	9.85	.45	3%		½%
2nd 6 mos.	8.44	.45	3%		½%
1st 6 mos.	7.035	.45	3%		½%
MARBLE SETTERS:					
Ashtabula Co.	11.21	.95	.70		
Cuyahoga Co.	12.65	1.05	1.20		.01
Lake Co.	13.02	.60	1.00		
Lorain Co.	12.85		.60	f	.01
MARBLE SETTERS' FINISHERS:					
Cuyahoga, Lake & Lorain Cos.	11.76		1.50		
PLASTERERS:					
Ashtabula Co.	11.21	.95	.70		
Lake Co.	13.02	.60	1.00		
Lorain Co.	12.85		.60	f	.01

DECISION #OH78-2057 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
TERRAZZO WORKERS:					
Ashtabula Co.	11.21	.95	.70		
Cuyahoga Co.	12.65	1.05	1.20		.01
Lake Co.	13.02	.60	1.00		
Lorain Co.	12.85		.60	f	.01
TERRAZZO WORKERS' FINISHERS:					
Cuyahoga, Lake, & Lorain Cos.	12.62		1.20		
TILE SETTERS:					
Ashtabula Co.	11.21	.95	.70		
Cuyahoga Co.	12.905		1.50		
Lake Co.	13.02	.60	1.00		
Lorain Co.	12.85		.60	f	.01
TILE SETTERS' FINISHERS:					
Cuyahoga, Lake, & Lorain Cos.	12.29		1.50		
ADD:					
FOOTNOTES:					
f. 2 paid holidays; C&D					

DECISION #OH78-2058 - MOD. #1
(43 FR 20691 - May 12, 1978)
Ashland, Carroll, Columbiana, Coshocton, Holmes, Medina, Tuscarawas, & Wayne Cos., Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Boilermakers:					
Carroll, Coshocton, Holmes, Medina, Tuscarawas, & Wayne Cos.	$12.98	.60	1.20		.03
Bricklayers; Marble Setters; Stonemasons; Terrazzo Workers; & Tile Setters:					
Medina (Twps. of Hinckley, Grander, Brunswick, Medina, Liverpool, Montville, & York) Co.:					
Bricklayers; Marble Setters; Stonemasons; & Terrazzo Workers	12.65	1.05	1.20		.01
Tile Setters	12.905		1.50		
Medina (Twps. of Litchfield, Chatham, Harrisville, Homer, & Spencer) Co.	12.85		.60	f	.01
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers:					
Columbiana Co.:					
Carpenters	10.45	.87	.85		.02
Piledrivermen	11.90	.55	10%		.5%
Cement Masons; Plasterers:					
Medina Co. (Rem of Co.):					
Cement Masons; Plasterer	12.85		.60	f	.01
Electricians:					
Ashland Co.	12.30	.45	3%+.50		.1%
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Ashland, & Medina (exclu. Twps. of Wadsworth, Guilford, Westfield, Lafayette, & Sharon) Cos.:					
Marble Setters' Finishers	11.76		1.50		
Terrazzo Workers' Finishers	12.62		1.20		
Tile Setters' Finishers	12.29		1.50		

ION #OH78-2058 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
E:					
ters:					
hocton Co.:					
ush; Paperhangers; Wall					
ashers; Wallpaper Cleaners;					
Drywall Tapers	$ 6.00				
ray	6.50				
ing Stage; Scaffold & Removal					
f Wall paper	6.25				
Construction:					
land Co.:					
uipment Operators; Linemen	12.30	.45	3%+.50		½%
ne Truck Drivers	8.00	.45	3%+.50		½%
oundman	7.38	.45	3%+.50		½%
umbiana (Butler, Fairfield,					
rry, Salem, & Unity Twps.)					
.:					
inemen; Cable Splicers;					
Operator - Pole Digging					
Equipment	14.07	.45	3%		½%
roundman 1st 6 mos.	7.035	.45	3%		½%
roundman 2nd 6 mos.	8.44	.45	3%		½%
roundman 2nd yr.	9.85	.45	3%		½%
roundman 3rd yr.	10.55	.45	3%		½%
roundman over 3 yrs.	11.26	.45	3%		½%
notes:					
2 paid holidays: C & D					

DECISION NO. OH78-2059 - MOD. #1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(43 FR 19562 - May 5, 1978)					
Statewide, Ohio					
Change:					
Bricklayers & Stonemasons:					
Allen, Auglaize, Mercer & Van Wert Cos.	11.90		.45		.02
Ashtabula County:					
Bricklayers	11.21	.95	.70		
Sewer Bricklayers	11.46	.95	.70		
Brown, Butler, Clermont, Hamilton, Preble (Twps. of Dixon, Gratis, Isreal, Lanier, & Somers), & Warren Cos.	12.945	.55	.35		.02
Cuyahoga Co. & Medina Co. (except the Twps. of Chatham, Wadsworth, Guilford, Westfield, Sharon, Lafayette, Harrisville, Homer, Litchfield & Spencer)	12.65	1.05	1.20		.01
Fayette, Ross & Pike Cos.	12.20				
Gallia & Meigs Cos.	11.65	.50			
Geauga & Lake Cos.	13.02	.60	1.00		
Jackson & Vinton Cos.	12.05				.05
Lorain Co. & Medina Co. (Chatham, Harrisville, Homer, Litchfield, & Spencer Twps.)	12.85		.60	e	.01
Trumbull County	11.99	.75	.50		.02
Washington Co., & the remainder of Noble Co.	10.90	.50			.04
Carpenters & Piledrivermen:					
Brown, Butler, Clermont, Clinton, Hamilton & Warren Cos.:					
Carpenters	12.20	.60	.65		.075
Piledrivermen	12.20	.60	.65		.075
Columbiana, Harrison & Jefferson Cos.:					
Carpenters	10.45	.87	.85		.02

DECISION NO. 0178-2059 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters & Piledrivermen:					
Mahoning and Trumbull Cos:					
Carpenters	10.74	1.17	1.10		.05
Piledrivermen	11.53	1.17	1.10		.05
Electricians:					
Allen, Auglaize, Hardin, Logan, Mercer, Shelby, & Van Wert Cos. & Wyandot Co. (West of Crane, Pitt, & Tymochtee Twps.)	12.21	.45	3%+.37		.04
Ashland, Crawford, Marion, Morrow & Richland Cos., Wyandot Co. (Remainder of Co.) Knox Co. (North ½ including Clinton, Howard, Liberty, Monroe & Union Twps.), & Huron Co. (Twps. of Greenwich, New Haven, Richmond & Ripley	12.30	.45	3%+.50		.1%
Brown, Clermont & Hamilton Cos.:					
Within 18 Mi. of Hamilton County Court House	12.50	.70	3%+.60		.5%
From 18 to 21 Miles	12.80	.70	3%+.60		.5%
From 21 to 25 Miles	12.90	.70	3%+.60		.5%
Over 25 Miles	13.05	.70	3%+.60		.5%
Erie Co., Huron Co. (Rem. of Co.)	12.70	.73	3%		.1%
Fayette, Highland, Hocking & Ross Cos. & Jackson Co. (Rem. of Co), Pickaway, Pike & Vinton Cos.	12.35	.40	3%		.02
Ashtabula (Remainder of County), Remainder of Portage and Trumbull Cos., Geauga Co. (Twps. of Auburn, Middlefield, Parkman and Troy), and Mahoning Co. (Twp. of Milton)	13.39	.60	7%		.7%

DECISION NO. 0178-2059 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ironworkers:					
Athens, Meigs, Morgan, Noble & Washington Cos.	11.67	.75	.85		.01
Crawford, Fayette, Hardin, Hocking, Jackson (N½ of Co.), Knox, Marion, Morrow, Muskingum, Perry, Pike (pt.), Ross, Vinton, Wyandot, & the rem. of Champaign, Clark, Highland, & Logan Cos.	11.55	.90	1.95		.05
Delaware, Fairfield, Licking, Madison, Pickaway & Union Cos.	11.45	.90	1.95		.05
Franklin Co.	11.30	.90	1.95		.05
Defiance, Paulding, Putnam, Van Wert & Williams Cos.	11.55	.90	1.45		.02
Linemen:					
Allen, Auglaize, Hardin, Logan, Mercer, Shelby, Van Wert & Wyandot Co. (Remainder of Co.)	12.53	.50	3%		½%
Ashland, Crawford, Marion, Morrow, & Richland Cos., Huron Co. (Twps. of Greenwich, New Haven, Richmond, & Ripley), Knox Co. (North Half including the Twps. of Clinton, Howard, Liberty, Monroe, & Union), & Wyandot Co. (East Half including the Twps. of Crane, Pitt & Tymochtee)	12.30	.45	3%+.50		.1%
Brown, Clermont & Hamilton Cos.					
Within 18 Mi. of Hamilton County Court House	12.50	.70	3%+.60		.5%
From 18 to 21 Miles	12.80	.70	3%+.60		.5%
From 21 to 25 Miles	12.90	.70	3%+.60		.5%
Over 25 Miles	13.05	.70	3%+.60		.5%

DECISION NO. OH78-2059 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen (Cont'd)					
Erie Co., & Huron Co. (Rem. of Co.)	12.70	.73	3%		½%
Mahoning & Trumbull Cos., Ashtabula Co. (Remainder of Co.), Columbiana Co. (Twps. of Butler, Fairfield, Perry, Salem & Unity), Geauga Co. (Twps. of Auburn, Middlefield, Parkman, & Troy) & Portage Co. (Twps. of Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris & Windham)	14.07	.45	3%		½%
Painters:					
Athens & Hocking Cos.:					
Brush	11.58				
Spray	12.08				
Brown, Clermont, & Hamilton Cos.					
Brush	12.50		.25		
Spray	12.90		.25		
Butler & Warren Counties					
Brush	10.73				
Spray	11.23				
Coshocton County:					
Brush	8.10				
Roller	8.10				
Spray; Sandblasting	8.60				
Sandblasting pot tend	7.60				
Erie, Hancock, Huron, Sandusky Seneca and Wyandot Counties					
Brush	10.15	.50	.70		50.00 p/yr
Structural Steel & Bridges	10.60	.50	.70		50.00 p/yr
Plumbers & Steamfitters:					
Adams, Athens, Gallia, Highland, Jackson, Lawrence, Pike Scioto, & Vinton Cos.	12.47	.55	.75		
Meigs, Monroe (Rem. of Co.), Morgan (Rem. of Co.)., & Washington Cos.	11.73	.52	.60		.045
Add:					
Bricklayers:					
Footnote:					
e. 2 paid holidays: Independence Day and Labor Day					

DECISION NO. SD78-5023 - Mod. #1 (43 FR 17239 - April 21, 1978) Meade and Pennington Counties, South Dakota	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers; Stonemasons	$10.25		.30		
Carpenters:					
Carpenters, Acoustical and Drywall Applicators	10.26	.30			.05
Piledrivermen	10.51	.30			.05
Millwrights	10.76	.30			.05
Cement Masons	8.90	.35	.40		
Plumbers; Steamfitters	10.28	.65	.60		.03
Sheet Metal Workers	10.60				.005
DECISION #UT78-5012 - Mod. #1 (43 FR 11454 - March 17, 1978) Statewide Utah					
Change:					
Line Construction Workers:					
Groundman	$8.24	.45	3%		1/2%
Line Equipment Serviceman	9.82	.45	3%		1/2%
Line Equipment Mechanic:					
Base Shop	9.82	.45	3%		1/2%
Right-of-way	10.49	.45	3%		1/2%
Line Equipment Operators	9.98	.45	3%		1/2%
Linemen	11.07	.45	3%		1/2%
Cable Splicers	12.18	.45	3%		1/2%
Marble Setters	10.12	.37	.30		
Sprinkler Fitters	11.13	.75	1.05		.08
Add:					
Terrazzo Workers & Tile Layers	10.12	.37	.30		

DECISION No. VA-78-3041 - Mod. #1
(43 FR 19579 - May 5, 1978)
The Independent Cities of Chesapeake, Portsmouth and Virginia Beach, Virginia.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Norfolk from Location					
Change:					
Bricklayers & Stonemasons	$ 9.33	.60	.20		.03

DECISION NO. WI77-2117 - MOD. #3
(42 FR 42172 - August 19, 1977)
Green Lake, Marquette, Waupaca Waushara & Winnebago Counties Wisconsin

Change:					
Bricklayers and Stonemasons	$ 9.95	.65	.40		.02
Carpenters & Soft Floor Layers	9.92	.50	.60		.05
Cement Masons	9.45	.65	.40		.02
Electricians	11.08	.60	3%		.50%
Laborers:					
Class I	8.35	.45	.40		.02
Class II	8.40	.45	.40		.02
Class III	8.55	.45	.40		.02
Marble Setters	9.95	.65	.40		.02
Millwrights and Piledrivermen	10.32	.50	.60		.05
Plasterers	9.95	.65	.40		.02
Tile setters & Terrazzo Workers	9.95	.65	.40		.02

DECISION NO. WI77-2111 - MOD. #3
(42 FR 48727 - September 23, 1977)
Green and Rock Counties, Wisconsin

Change:					
Electricians	11.35	.50	3%	7%	.50%

DECISION #WV77-3083 - Mod. #4
(42 FR 53172 - September 30, 1977)
Statewide, West Virginia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & Stonemasons:					
Area 1	$11.52	.65	.75		
Area 2	10.73	.55	.50	a	.03
Area 5	12.64	.30	.30		
Area 6	10.85	.60			
Electricians:					
Area 2					
Contracts $15,000 or less:					
Wiremen	8.37	.50	3%+.52	.77	.06
Cable Spicers	8.67	.50	3%+.52	.77	.06
Contracts over $15,000:					
Wiremen	11.27	.50	3%+.52	.77	.06
Cable Splicers	11.57	.50	3%+.52	.77	.06
Area 15					
Contracts $15,000 or less:					
Wiremen	8.67	.50	3%+.52	.77	.06
Cable Splicers	8.97	.50	3%+.52	.77	.06
Contracts over $15,000:					
Wiremen	11.57	.50	3%+.52	.77	.06
Cable Splicers	11.87	.50	3%+.52	.77	.06
Area 16					
Contracts $15,000 or less:					
Wiremen	8.87	.50	3%+.52	.77	.06
Cable Splicers	9.17	.50	3%+.52	.77	.06
Contracts over $15,000:					
Wiremen	11.77	.50	3%+.52	.77	.06
Cable Splicers	12.07	.50	3%+.52	.77	.06
Ironworkers:					
Area 1	11.63	.90	1.05		.09
Area 3	11.67	.90	1.05		.01
Line Construction:					
Area 2					
Linemen & operators (all mechanized equipment)	11.27	.50	3%+.52	.77	½ of 1%
Cable Splicers	11.57	.50	3%+.52	.77	½ of 1%
Groundman	9.02	.50	3%+.52	.77	½ of 1%

DECISION #WV77-3083 - Mod. #4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction: Cont'd					
Area 12					
Linemen & operators (all mechanized equipment)	$11.57	.50	3%+.52	.77	½ of 1%
Cable Splicers	11.87	.50	3%+.52	.77	½ of 1%
Groundmen	9.26	.50	3%+.52	.77	½ of 1%
Area 13					
Linemen & operators (all mechanized equipment)	11.77	.50	3%+.52	.77	½ of 1%
Cable Splicers	12.07	.50	3%+.52	.77	½ of 1%
Groundmen	9.42	.50	3%+.52	.77	½ of 1%
Painters:					
Area 2					
Brush, roller, spray	9.35		.30		
Structural steel, industrial	12.65		.30		
Power cleaning tools and lining machine work - 50¢ over appropriate scale					
Material emitting toxic vapors - $1.00 over appropriate scale					
Height clause - Additional $1.00 per hour per 100'					

DECISION #WV77-3083 - Mod. #4

	NEW Basic Hourly Rates	REPAINT Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters: Cont'd						
Area 5						
Brush	$ 9.18	$ 8.36	.55			.02
Air Compressor Operator	9.18	8.36	.55			.02
Roller, Spray, Dipping & Mitten Work	9.50	8.72	.55			.02
Water blasters, Steam jenny nozzle men, swinging scaffold & Boatswain chair, window belt & window jack work	10.03	9.47	.55			.02
Brush painters on bridges needle beam, cable work power tool work, brush & flame cleaning	10.41	9.90	.55			.02
Sand blaster	10.74	10.23	.55			.02
All stacks, vent pipes flag poles, in excess of 30' high, all towers, water towers, elevated tanks, electrical switch yards, transformer banks, television towers	11.69	11.29	.55			.02
Spray painter or sandblaster on bridges needle beam cable work	10.74	10.16	.55			.02

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DECISION #WV77-3083 - Mod. #4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers & Pipefitters:					
Area 3	$10.29	.55	.95	1.029	.04
Area 4	10.54	.55	.95	1.054	.04
Area 8		"			
Contracts $75,000 or less	8.55	.45	.60		.09
Contracts over $75,000	11.42	.45	.60		.09
Area 9	10.79	.55	.95	1.079	.04
Area 10	11.04	.55	.95	1.104	.04

SUPERSEDEAS DECISION

STATE: Alabama COUNTIES: *See below
DECISION NUMBER: AL78-1053 DATE: Date of Publication
Supersedes Decision No.: AL77-1089 dated July 8, 1977, in 42 FR 35537
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

*Counties: Baldwin, Escambia, Mobile and Washington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning Mechanic	$ 7.00				
Bricklayers	5.50				
Carpenters	4.00				
Cement Masons	4.81				
Dry Wall Finishers	5.63	"			
Dry Wall Hangers	5.50				
Electricians	5.53				
Laborers:					
Unskilled	3.71				
Painters	5.50				
Plumbers	6.50				
Roofers	8.84		.30		
Paper Roller & Kettleman	7.74		.30		
Sheet Metal Workers	7.00	.55			
Soft Floor Layers	4.00				
Tile Setters	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	7.33				
Bulldozers	4.50				
Front End Loader	8.00				

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Hillsborough
DECISION NUMBER: FL78-1054 DATE: Date of Publication
Supersedes Decision No. FL76-1014 dated January 23, 1976 in 41 FR 3587
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	$10.25	.60	1.05		.02
BRICKLAYERS	9.15				
CARPENTERS	8.765	.325	.30		.04
MILLWRIGHTS	9.37	.45	.45		.06
PILEDRIVERMEN	9.015	.325	.30		.04
CEMENT MASONS	8.60	.45	.50		.09+.01
ELECTRICIANS:					
Commercial:					
Electricians	8.87	5½%	3%+3%	4%	.10
Industrial:					
Electricians	10.20	5½%	3%+3%	4%	.10
IRONWORKERS	10.30	.65	.50		.05
LABORERS	5.14				
LATHERS	9.49		.20		.01
LINE CONSTRUCTION:					
Linemen & Heavy Equipment Operator	10.80	.45	3%		3/4%
Cable Splicers	11.23	.45	3%		3/4%
Winch Truck Drivers Operator	8.30	.45	3%		3/4%
Groundmen	6.26	.45	3%		3/4%
PAINTERS	8.65	.35	.40		.06
PLASTERERS	8.76	.30	.50		.05
PLUMBERS	7.22				
ROOFERS	8.05	.25	.20		.02
ROOFERS, Kettlemen	5.60	.25	.20		.02
TILE SETTERS	9.05	.45	.50		.10
WELDER -receive rate prescribed for craft perfoming operator to which welding is incidental.					

DECISION NO. FL78-1054 (Cont'd)

FLA-2-PEO-1

POWER EQUIPMENT OPERATOR	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.89	.375	.35		.05
GROUP B	10.14	.375	.35		.05
GROUP C	9.905	.375	.35		.05
GROUP D	9.685	.375	.35		.05
GROUP E	8.135	.375	.35		.05
GROUP F	7.875	.375	.35		.05
GROUP G	7.645	.375	.35		.05

GROUP A: Cat cranes, truck cranes pile driver crane, derrick, dragline, material hoist with Chicago boom, material hoist with two drums, hydraulic lift form, diesel electric and steam generators, motor grader, pumperete or similar machine, cherry picker gradall, hypto and wheelabrator and mechanic, tractor back hoe, drill, rig & tack boom tractor

GROUP B: Tugger hoist
GROUP C
GROUP C: Trenching machine over 24" winch truck; material hoist (elevator type)

GROUP D: Crawler bulldozer, crawler tractor and turnapull, heavy hufftype front end loader, heavy DW-10 to DW-21 type rubber tired tractor, road roller, fireman, forklift, concrete batch plant operator

GROUP E: Air compressor 125 cu. ft. or over

GROUP F: Wellpoint system and pumps, material hoist, front end loader other than heavy huff type, rubber tired tractor with attachments other than backhoe

GROUP G: Concrete mixer, rubber tired tractor without attachments, trenching machines under 24" high lift, sand blasting machines, welding machine, air compressor, miscellaneous pumps

150' boom, including jib scale of top operator classification plus $.25 per hour.
Tower crane operators $.25 per hour above top operator classification not including long boom pay.

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTIES: Oklahoma, Cleveland, Caddo, Grady, Canadian, Kingfisher, Lincoln, Logan, McClain, Seminole and Pottawatomie

DECISION NO. OK78-4054 DATE: Date of Publication

SUPERSEDES DECISION NO. OK77-4273 dated September 30, 1977 in 42 FR 53091

DESCRIPTION OF WORK: Building Construction (but 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	$11.75	.45	1.00		.02
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-STONEMASONS:					
Oklahoma, Cleveland, Canadian and McClain Counties	10.60	.62	.75		.05
Lincoln, Pottawatomie and Seminole Counties	9.85	.50	.30		.05
Kingfisher County	8.75		.30		
Logan County	10.27	.50	.50		.10
Caddo and Grady Counties	9.50	.50	.30		.05
CARPENTERS - ZONE I					
Carpenters	8.75	.55	.25		.05
Power saw operator	9.00	.55	.25		.05
Millwrights-Piledrivermen	9.90	.45	.60		.09
CARPENTERS - ZONE II					
Carpenters	9.65	.45	.60		.09
Millwrights-Piledrivermen	9.90	.45	.60		.09
Power saw operator	9.90	.45	.60		.09
CARPENTERS - ZONE III					
Carpenters	9.66	.45	.25		.09
Power saw operator	9.91	.45	.25		.09
Millwrights-Piledrivermen	9.91	.45	.25		.09
CARPENTERS - ZONE IV					
Carpenters	8.70	.45	.25		.02
Millwrights-Piledrivermen	9.525	.45	.25		.02
CARPENTERS V					
Carpenters	9.50	.50	.30		.10
Millwrights-Piledrivermen	9.90	.45	.60		.09

CARPENTERS AREA DEFINITION

ZONE I - Northern 1/2 of Lincoln County bound on the South by Interstate 35 on the East of Highway 99

ZONE II - Pottawatomie County and part of Lincoln County south of Turner Turnpike; the City limits of Moore in Cleveland County; all of Oklahoma, Canadian, Kingfisher and Logan Counties.

ZONE III - McClain County and Cleveland County (except that area covered by the City limits of Moore)

ZONE IV - Seminole County

ZONE V - Caddo and Grady Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Lincoln, Oklahoma, McClain, Caddo, Grady, Cleveland, Canadian, Logan & Kingfisher Cos.	$ 9.23	.40			
ELECTRICIANS:					
Zone I	10.85	.70	3%+.50		1%
Zone II	11.10	.70	3%+.50		1%
Zone III	11.35	.70	3%+.50		1%
CABLE SPLICERS:					
Zone I	11.10	.70	3%+.50		1%
Zone II	11.35	.70	3%+.50		1%
Zone III	11.60	.70	3%+.50		1%

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITION

ZONE I - the area within the twelve mile radius of the main Post Office located in one of the cities listed as follows: El Reno, Moore, Norman, and Oklahoma City.

ZONE II - the area between the twelve mile zone 1 radius to thirty mile radius of the zone 1 post office, except where zone 2 intercepts another zone 1 area.

ZONE III - the area outside zones 1 and 2 and within the local union area.

ELEVATOR CONSTRUCTORS	110.11	.545	.35	2½%+a+b	.02
ELEVATOR CONSTRUCTORS HELPER	70%JR	.545	.35	2½%+a+b	.02
ELEVATOR CONSTRUCTORS HELPER(PROJ.)	50%JR				
GLAZIERS	9.30				
IRONWORKERS	10.10	.45	.65		.12
LABORERS:					
ZONE I					
Group I	7.65	.25	.40		
Group II	7.90	.25	.40		
ZONE II					
Group I	6.30	.25	.40		
Group II	6.55	.25	.40		
ZONE III					
Group I	6.45	.25	.40		
Group II	6.75	.25	.40		
ZONE IV					
Group I	6.15	.25	.40		
Group II	6.40	.25	.40		

LABORERS CLASSIFICATION DEFINITION

GROUP I - Unskilled laborers

GROUP II - Air tool operator (jackhammer-vibrator), mason tenders, mortar mixers, pipelayers (concrete and clay), plasterers tenders

AREA COVERED BY LABORERS ZONES

ZONE I - Oklahoma, Canadian, Logan, Pottawatomie, Lincoln and Cleveland Counties.

ZONE II - McClain, Caddo and Grady Counties

ZONE III - Seminole County

ZONE IV - Kingfisher County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 9.00				.01
LINE CONSTRUCTION:					
Linemen	9.85		3%		1/2%
Cable splicers	10.44		3%		1/2%
Hole digger operator	8.94		3%		1/2%
Heavy equipment operators (or pole cat equivalent)	8.94		3%		1/2%
Line truck driver (winch op.)	8.09		3%		1/2%
Jack hammerman	7.37		3%		1/2%
Powderman	8.94		3%		1/2%
Groundman (1st year)	5.12		3%		1/2%
Groundman	6.57		3%		1/2%
Truck driver (flat bed, ton and half and under)	7.02		3%		1/2%
MARBLE MASONS	10.05		.30		
PAINTERS:					
Brush	8.95	.50	.35	.35	.03
Spray under 30 feet	9.45	.50	.35	.35	.03
Spray over 30 feet	9.95	.50	.35	.35	.03
Sandblasting under 30 feet	9.45	.50	.35	.35	.03
Sandblasting over 30 feet	9.95	.50	.35	.35	.03
Hazardous work	9.45	.50	.35	.35	.03
Paperhanging	9.95	.50	.35	.35	.03
Tapers using machine tools	9.45	.50	.35	.35	.03
PLASTERERS	10.00				.01
PLUMBERS-PIPEFITTERS	11.67	.60	.85		.10
POWER EQUIPMENT OPERATORS:					
Group I	11.25	.45	.50		.12
Group II	11.00	.45	.50		.12
Group III	10.75	.45	.50		.12
Group IV	10.50	.45	.50		.12
Group V	10.25	.45	.50		.12
Group VI	10.00	.45	.50		.12
Group VII	9.75	.45	.50		.12
Group VIII	9.35	.45	.50		.12
Group IX	8.75	.45	.50		.12
Group X	8.75	.45	.50		.12
Group XI	8.75	.45	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I

All crane type equipment with 250' of boom or over (including jib)

GROUP II

All crane type equipment with 200' of boom or over (including jib)

GROUP III

All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV

All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V

Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI

Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

GROUP VII

Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII

Greaser, tilt top trailer operator

GROUP IX

Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X

Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI

Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	9.15	.60	.25		.04
SHEET METAL WORKERS	10.82	.50	.84		.07
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	9.10	.50		.25	.03
SPRINKLER FITTERS	11.60	.75	1.05		.08
TERRAZZO WORKERS	10.05		.30		
TERRAZZO WORKERS FINISHER	6.98				
TERRAZZO BASE MACHINE MAN	7.28				
TERRAZZO FLOOR MACHINE MAN	7.08				
TILE SETTERS	10.05		.30		
TILE & MARBLE FINISHERS:					
Experienced finishers	6.65				
TRUCK DRIVERS:					
Group I	6.92				
Group II	6.92				
Group III	6.62				

TRUCK DRIVERS CLASSIFICATION DEFINITION

GROUP I - Truck drivers for heavy equipment such as lowboys, heavy winch and floats

GROUP II - Heavy earth moving equipment such as dump trucks and Euclids.

GROUP III - Truck drivers and swampers, such as dump trucks, flat beds, stake bodies, and 3/4, and 1/2 ton pick-up trucks.

WELDERS - received rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

A. 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 yrs. - 8% of basic hourly rate.

B. Paid Holidays A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTIES: Tulsa, Creek, Craig, Ottawa, Delaware, Mayes and Rogers

DECISION NO. OK78-4055 DATE: Date of Publication

SUPERSEDES DECISION NO. OK78-4022 dated March 17, 1978 in 43 FR 11451

DESCRIPTION OF WORK: Building Construction (but 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	$12.20	.35	.75		.015
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-STONEMASONS:					
Tulsa, Delaware, Ottawa, Craig, and Rogers Counties	10.59	.45	.40	.33	.06
Mayes County	9.75	.45	.40		.05
CARPENTERS:					
Area I	9.68	.45	.75		.07
Area II	8.12	.33	.30		
MILLWRIGHTS-PILEDRIVERMEN:					
Area I	9.98	.45	.75		.07
Area II	8.37	.33	.30		

CARPENTERS-MILLWRIGHTS-PILEDRIVERMEN AREA DEFINITIONS

AREA I - Tulsa, Creek, Craig, Rogers and Mayes Counties

AREA II - Delaware and Ottawa Counties

CEMENT MASONS:					
Cement masons	10.22		.40		.16
Power tool operator	10.47		.40		.16
ELECTRICIANS:					
Electricians	10.65	.46	3%+.40	.30	.07
Cable splicers	10.90	.46	3%+.40	.30	.07
ELEVATOR CONSTRUCTORS	10.40	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPER	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPER (Probationary 6 months)	50%JR				
GLAZIERS:					
Area I	9.16	.50	.30		.01
Area II	8.05			.25	

GLAZIERS AREA DEFINITIONS

AREA I - Tulsa, Creek, Mayes, and Rogers Counties

AREA II - Craig, Delaware and Ottawa Counties

IRONWORKERS	10.10	.45	.65		.12
LABORERS:					
Group I	7.65	.25	.40		
Group II	7.95	.25	.40		
Group III	8.05	.25	.40		
Group IV	8.50	.25	.40		

LABORERS CLASSIFICATION DEFINITIONS

Group I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of bnuilding and all structures; cleaning when the man is directly tenders; and common laborers.

Group II - All machines tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale man on batch plants; all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle; signalmen and cutting torch operators in connection with laborers work; concrete grader

Group III - Wagon drill operator
Group IV - Powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	8.65		.30		.01
LINE CONSTRUCTION:					
Linemen	9.85		3%		½%
Cable splicers	10.44		3%		½%
Hole digger operator	8.94		3%		½%
Heavy equipment op. (pole or cat equivalent)	8.94		3%		½%
Jack Hammerman	7.37		3%		½%
Line truck driver (winch op.)	8.09		3%		½%
Powderman	8.94		3%		½%
Groundman	6.57		3%		½%
Truck driver (flat bed ton and half and under)	7.02		3%		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Craig, Ottawa and Delaware Counties:					
Brush, roller, tapers, paperhangers	7.92		.30		
Spray, steamclean, sandblast, and pot tenders	8.295		.30		
PAINTERS (Tulsa, Creek, Rogers and Mayes Counties:					
Brush	10.40		.40		.07
Highwork and stage	10.80		.40		.07
Spray and sandblasting	11.05		.40		.07
Hot or bituminous	11.70		.40		.07
Sheetrock handtools	10.40		.40		.07
Sheetrock power tools	10.75		.40		.07
Hazardous work	12.60		.40		.07
PIPEFITTERS	11.57	.55	.75		.08
PLASTERERS	10.15				.01
PLUMBERS	11.57	.55	.75		.08
POWER EQUIPMENT OPERATORS-					
GROUP I	11.25	.45	.50		.12
GROUP II	11.00	.45	.50		.12
GROUP II	10.75	.45	.50		.12
GROUP IV	10.50	.45	.50		.12
GROUP V	10.25	.45	.50		.12
GROUP VI	10.00	.45	.50		.12
GROUP VII	9.75	.45	.50		.12
GROUP VIII	9.35	.45	.50		.12
GROUP IX	8.75	.45	.50		.12
GROUP X	8.75	.45	.50		.12
GROUP XI	8.75	.45	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 250' of boom or over (including jib)
GROUP II - All crane type equipment with 200' of boom or over (including jib)
GROUP III - All crane type equipment with 150 - 200' of boom (including jib)
GROUP IV - All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30" & over), guy derrick
GROUP V - Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VI - Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment of ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

GROUP VII - Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump opreator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII - Greaser, tilt top trailer operator

GROUP IX - Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single continous belt bulk handling

GROUP X - Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI - Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	9.15	.60	.25		.04
SHEET METAL WORKERS	9.53	.50	.66		.10
SOFT FLOOR LAYERS	7.71		.45	74+b	.03
SPRINKLER FITTERS	11.15	.65	.95		.08
TERRAZZO WORKERS	9.90		.30		
TERRAZZO WORKERS' & Tile layers finishers	8.19				
TERRAZZO WORKERS' floor machine operator	8.30				
TERRAZZO WORKERS' base machine operator	8.51				
TILE LAYERS	9.90		.30		

TRUCK DRIVERS: (DELAWARE COUNTY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group I	7.55				
Group II	7.65				
Group III	7.75				
Group IV	7.70				
Group V	7.85				

DELAWARE COUNTY - TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Pick-up 1½ tons, or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.

GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards

GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, tourner pulls, or other heavy material moving equipment, tractor trailer drivers and similar equipment, such as tractors, ten wheelers

GROUP IV - Ready mix concrete trucks up to but not including 3 yards

GROUP V - Ready mix concrete trucks 3 yards and over

TRUCK DRIVERS (TULSA, CREEK, CRAIG, OTTAWA, MAYES & ROGERS COUNTIES)						
Group I	8.83					
Group II	8.88					
Group III	8.98					
Group IV	8.98					
Group V	8.98					

TULSA, CREEK, CRAIG, OTTAWA, MAYES AND ROGERS COUNTIES - TRUCK DRIVERS CLASSIFICATION DEFINITIONS

Group I - Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver

Group II - 3 tons or 4 yards up to but not including 4 tons or 6 yards.

Group III - 5 tons or 6 yards and over including heavy equipment

Group IV - Ready mix concrete truck

Group V - Tractor-trailer and similar equipment

FOOTNOTES:

a - 1 6 mos. none; 6 mos. to 5 yrs. -6%; over 5 years - 8% of basic hourl y rate.

b - Paid Holidays - A through F

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christman Day.

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Muskogee, Adair, Cherokee and Okmulgee

DECISION NO. OK78-4056 DATE: Date of Publication

Supersedes Decision No. OK77-4284 dated September 30, 1977 in 42 FR 53109

DESCRIPTION OF WORK: Building Construction (but does not include single family homes and garden type apartments up to and including 4 stories), and heavy construction within the City of Muskogee.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$12.20	.35	.75		.015
Boilermakers	10.55	.80	1.00		.02
Bricklayers	10.25	.45	.40		.05
Carpenters:					
Area I	8.85	.45	.75		.06
Area II	8.35	.45	.75		.05
Millwrights & Piledrivermen:					
Area I	9.35	.45	.65		.06
Area II	9.70	.45	.75		.05

CARPENTERS-MILLWRIGHTS-PILEDRIVERMEN AREA DEFINITIONS

AREA I -- MUSKOGEE, ADAIR & CHEROKEE

AREA II -- OKMULGEE

Cement Masons:	9.55				
Area I	9.80				
Cement Masons	9.55				
Power Tool Operator	9.80				
Area II					
Cement Masons	10.22		.40		.16
Power Tool Operator	10.47		.40		.16

CEMENT MASONS & POWER TOOL OPERATORS AREA DEFINITIONS

Area I -- Adair, Cherokee, Muskogee and Southern portion of Okmulgee

Area II -- Northern portion of Okmulgee

Electricians:					
Zone I -- A 20 mile radius from Post Office of City of Muskogee					
Zone II -- Area outside Zone I					
Zone III Okmulgee					
Zone I					
Electricians	10.93	.60	3%		1/2%
Cable splicers	11.33	.60	3%		1/2%
Zone II					
Electricians	11.23	.60	3%		1/2%
Cable splicers	11.63	.60	3%		1/2%
Zone III					
Electricians	10.65	.46	3%+.40	.30	.07
Cable splicers	10.90	.46	3%+.40	.30	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Elevator Constructors	10.40	.545	.35	4%+a+b	.02
Glaziers	9.16	.50	.30		.01
Ironworkers	10.10	.45	.65		.12
Laborers:					
Area I -- Muskogee, Adair & Cherokee					
Area II -- Okmulgee					

ALL DIGGING AND DIRT WORK, FIRING OF SALAMANDERS AND PORTABLE SPACE HEATERS. ALL LOADING AND UNLOADING OF MATERIALS AND EQUIPMENT. ALL LOADING AND UNLOADING OF MATERIALS TO AND FROM HOIST OR CAGES FOR STOCK PILING ONLY. WHEELING AND PLACING OF CONCRETE. HANDLING OF LUMBER, STEEL, CEMENT AND DISTRIBUTION OF MATERIALS. ALL CLEANING, INCLUDING CLEANING OF WINDOWS. ALL WRECKING AND RAZING OF BUILDINGS AND ALL STRUCTURES, CLEANING AND CLEANRING OF DEBRIS. LOADING AND UNLOADING OF MATERIALS, HOIST OR CAGES, EXCEPT WHEN THE MAN IS DIRECTLY TENDING LATHERS, MASONS OR PLASTERERS. WATER BOYS, WHEN USED. CARPENTERS TENDERS.

Area I	6.85	.25	.40
Area II	7.65	.25	.40

ALL MACHINE TOOL OPERATORS THAT COME UNDER THE JURISDICTION OF THE LABORERS. ALL SEWER AND DRAIN TILE LAYERS AND HANDLING AT THE DITCH, EXCLUDING DISTRIBUTION OPERATORS OF WATER PUMPS UP TO FOUR INCHES AND SLIP FORM JACKS. ALL MEN ERECTING SCAFFOLDS AND DIRECTLY TENDING LATHERS, MASONS, CEMENT MASONS AND PLASTERERS. MORTAR MIXERS, HOD CARRIERS AND DRY MIXERS. HIGH WORK OVER 30 FEET FROM GROUND OR FLOORS. CEMENT FINISHER HELPER. WORK ON SWINGING SCAFFOLD. ALL KETTLE AND POT MAN, TANK CLEANING, ALL PIPE DOPING, TREATING AND WRAPPING, INCLUDING ALL MEN WORKING WITH DOPE. MORTAR AND PLASTER-MIXING MACHINE, PUMP-CRETE MACHINE, AND GUNITE MIXING MACHINES, INCLUDING PLACING OF CONCRETE. HANDLING CREOSOTED TREATED MATERIALS, LIQUID ACID, OR LIKE MATERIALS WHEN INJURIOUS TO HEALTH, EYES AND SKIN OR CLOTHES. ALL NEWLY DEVELOPED MECHANICAL EQUIPMENT WHICH REPLACES WHEEL BARROWS OR BUGGIES PREVIOUSLY USED BY LABORERS. ALL SCALE MEN ON BATCH PLANTS. ALL LABORERS SCREENING SAND, RUNNING SAND DRIER, AND FEEDING OPERATING SAND BLASTER, EXCEPT NOZZLE. ALL FLAG MEN, SIGNAL MEN AND CUTTING TORCH OPERATORS IN CONNECTION WITH LABORERS' WORK. CONCRETE GRADER.

Area I	7.15	.25	.40
Area II	7.95	.25	.40
WAGON DRILL OPERATOR			
Area I	7.35	.25	.40
Area II	8.05	.25	.40
POWDERMAN OR BLASTER			
Area I	7.35	.25	.40
Area II	8.50	.25	.40

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers	$8.65		.30		.01
Line Construction:					
Lineman	9.85		3%		1/2%
Cable splicers	10.44		3%		1/2%
Hole digger operator	8.94		3%		1/2%
Heavy equipment operator (pole or cat equivalent)	8.94		3%		1/2%
Jack Hammerman	7.37		3%		1/2%
Line truck driver (winch operator)	8.09		3%		1/2%
Powderman	8.94		3%		1/2%
Groundman	6.57		3%		1/2%
Truck driver (flat bed ton and half and under)	7.02		3%		1/2%
Marble, Tile & Terrazzo Workers	9.90		.30		
Painters (Okmulgee):					
Brush	10.40		.40		.07
Highwork and stage	10.80		.40		.07
Spray and sandblasting	11.05		.40		.07
Hot or bituminous	11.70		.40		.07
Sheetrock hand tools	10.40		.40		.07
Sheetrock power tools	10.75		.40		.07
Hazardous work	12.60		.40		.07
Painters (Adair, Muskogee & Cherokee Counties, Oklahoma):					
Brush painting & roller	8.50		.40	.20	.07
Highwork & Stage	8.90		.40	.20	.07
Sandblasting & Spray	9.15		.40	.20	.07
Hot or Bituminous	9.80		.40	.20	.07
Hazardous work	10.65		.40	.20	.07
Sheetrock power tools	8.85		.40	.20	.07
Plumbers & Pipefitters	11.30	.50	.80		.15
Plasterers	9.15				.01

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	11.25	.45	.50		.12
II	11.00	.45	.50		.12
III	10.75	.45	.50		.12
IV	10.50	.45	.50		.12
V	10.25	.45	.50		.12
VI	10.00	.45	.50		.12
VII	9.75	.45	.50		.12
VIII	9.35	.45	.50		.12
IX	8.75	.45	.50		.12
X	8.75	.45	.50		.12
XI	8.75	.45	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group I
All crane type equipment with 250' of boom or over (including jib)

Group II
All crane type equipment with 200' of boom or over (including jib)

Group III
All crane type equipment with 150 - 200' of boom (including jib)

Group IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes all crane type equipment of 3 cu. yd. or more (as rated by mfg), side-boom (booms 30' & over), guy derrick

Group V
Heavy duty mechanic, welder, crane-hook & overhead monorail, whirley, panel board, batch plant operator, piledriver, engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stack & chimney work (1 or 2 drums), power driven hole digger (with 30' & longer mast)

Group VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber-tired equipment, Euclid, TS-24 and similar, loader operator or Hi-Lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, power driven hole digger with less than 30' mast, trenching machine, concrete pump boom type--- Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

Group VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. & over, sand barge, dredging machine, tugger, hoist -- when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with a frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Opera. engrs., fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable) conveyor pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

Group VIII
Greaser, tilt top trailer operator

Group IX
Permanent elevator -- building type (automatic), concrete mixer with hopper less than 1- cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2), pump (1 or 2), fuelman, conveyor operator--single-continous belt bulk handling

Group X
Asphalt lay machine back end man, mechanic helper, welder helper

Group XI
Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers	$ 9.15	.60	.25		.04
Sheet Metal Workers	9.53	.50	.66		.10
Sprinkler Fitters	11.60	.75	1.05		.08
Terrazzo Workers Finisher	8.19				
Terrazzo Workers Floor Operator	8.30				
Terrazzo Workers Base Machine Op.	8.51				
Truck Drivers:					
Group 1	$ 8.03				
2	8.13				
3	8.23				
4	8.18				
5	8.33				

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

Group I
Pick-up 1 1/2 tons, or 2 1/2 yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses

Group II
3 tons or 4 yards and up to but not including 4 tons or 6 yards

Group III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment, tractor trailer drivers and similar equipment, such as tractors, ten wheelers

Group IV
Ready-mix concrete trucks up to but not including 3 yards

Group V
Ready-mix concrete trucks 3 yards and over

FOOTNOTES:
a. 1st 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate.
b. Paid Holidays - A through F

PAID HOLIDAYS:
A-New Years Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Latimer, Leflore, Haskell Sequoyah and Pushmataha

DECISION NO. OK78-4057 DATE: Date of Publication

SUPERSEDES DECISION NO. OK77-4270 dated September 30, 1977 in 42 FR 52878

DESCRIPTION OF WORK: Building Construction (but 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	$12.20	.35	.75		.015
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-STONEMASONS	10.25	.45	.40		.05
CARPENTERS:					
AREA I					
Carpenters	8.00	.45	.40		
Millwrights & Piledrivermen	8.80	.45	.40		
AREA II					
Carpenters	8.52	.45	.35		.05
Millwrights & Piledrivermen	9.28	.45	.35		.05
AREA III					
Carpenters	8.85	.45	.65		.06
Millwrights & Piledrivermen		.45	.65		.06
AREA IV					
Carpenters	7.80				
Millwrights & Piledrivermen	8.47				

CARPENTERS, MILLWRIGHTS & PILEDRIVERMEN AREA DEFINITIONS

AREA I
That portion of Leflore County south of the northern boundary of the Ouachita National Forest; Latimer County and that portion of Haskell County south of Highway 9

AREA II
That portion of Leflore County east of Highway 82 with the line extending south of the Highway 82 to Highway 9 and the northern portion of Leflore County north of the Ouachita National Forest; Sequoyah County east of Highway 82 excluding the city of Vivan.

AREA III
Remainder of Haskell and Sequoyah Counties

AREA IV
Pushmataha County

CEMENT MASONS:					
Leflore County	8.67	.25			
Pushmataha, Latimer & Haskell Co.	7.50				
Sequoyah County	9.55				
ELECTRICIANS:					
AREA I					
Electricians	10.65	.35	3%+5.5%		1/4%
Cable splicers	10.90	.35	3%+5.5%		1/4%

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA II					
Electricians	$10.93	.60	3%		1/2%
Cable splicers	11.33	.60	3%		1/2%
AREA III					
Electricians	11.23	.60	3%		1/2%
Cable splicers	11.63	.60	3%		1/2%

ELECTRICIANS-CABLE SPLICERS AREA DEFINITIONS

AREA I

Braden, Pocola and Spiro Townships only in Leflore County; That part of Sequoyah County east of Brent, Prices, Chapel, Rocky Mount and Sallisaw.

AREA II

That part of Sequoyah County within a five mile radius of the Post Office in Sallisaw.

AREA III

Remainder of Leflore County; Remainder of Sequoyah County; All of Haskell, Pushmataha and Latimer Counties.

GLAZIERS	9.16	.50	.30		.01
IRONWORKERS	10.10	.45	.65		.12
LABORERS: (Haskell, Leflore and Sequoyah Counties):					
Area I	6.85	.25	.40		
Area II	7.15	.25	.40		
Area III	7.35	.25	.40		
Area IV	7.35	.25	.40		
LABORERS: (Latimer & Pushmataha Counties):					
Area I	6.45	.25	.40		
Area II	6.75	.25	.40		
Area III	6.95	.25	.40		
Area IV	6.95	.25	.40		

LABORERS CLASSIFICATION DEFINITION

AREA I

Unskilled laborers

AREA II

Semi-skilled laborers, mason tenders, mortar mixers, air tool operator, (jackhammer, vibrator), pipelayers, concrete and clay, sewer drain, and plasterer tenders.

AREA III

Wagon drill operator

AREA IV

Powderman or blasterers

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman	$ 9.85		3%		1/2%
Cable splicers	10.44		3%		1/2%
Hole digger operator	8.94		3%		1/2%
Heavy equipment operator (or pole cat equivalent)	8.94		3%		1/2%
Line truck driver (winch op.)	8.09		3%		1/2%
Jackhammer man	7.37		3%		1/2%
Powderman	8.94		3%		1/2%
Groundman (1st year)	5.12		3%		1/2%
Groundman	6.57		3%		1/2%
Truck driver (flat bed, ton and half and under)	7.02		3%		1/2%
MARBLE SETTERS	9.90		.30		
TILE & TERRAZZO WORKERS	9.90		.30		
TILE & TERRAZZO FINISHERS:					
Experienced finishers	8.19				
Floor machine operator	8.30				
Base machine operator	8.51				
PAINTERS:					
Brush & roller	8.50		.40	.20	.07
Highwork and stage	8.90		.40	.20	.07
Sandblasting & spray painting	9.15		.40	.20	.07
Hot or bituminous	9.80		.40	.20	.07
Hazardous work	10.65		.40	.20	.07
Sheetrock power tools	8.85		.40	.20	.07
PLASTERERS:					
Leflore County	9.25				.02
Sequoyah County	9.65				.01
PLUMBERS & PIPEFITTERS:					
Pushmataha County	11.67	.60	.85		.10
Leflore, Sequoyah, Latimer and Haskell Counties	11.50	.50	.80		.15
ROOFERS	9.15	.60	.25		.04
SHEET METAL WORKERS	9.53	.50	.66		.10
SOFT FLOOR LAYERS	7.71		.45	.74+a	.03
SPRINKLER FITTERS	11.60	.75	1.05		.08
TRUCK DRIVERS:					
Group 1	8.03				
Group 2	8.13				
Group 3	8.23				
Group 4	8.18				
Group 5	8.33				

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I
Pick-up 1½ tons, or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses

GROUP II
3 tons or 4 yards and up to but not including 4 tons or 6 yards

GROUP III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment, tractor trailer drivers and semilar equipment, such as tractors, ten wheelers

GROUP IV
Ready-mix concrete trucks up to but not including 3 yards

GROUP V
Ready-mix concrete trucks 3 yards and over

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group I	$11.25	.45	.50		.12
Group II	11.00	.45	.50		.12
Group III	10.75	.45	.50		.12
Group IV	10.50	.45	.50		.12
Group V	10.25	.45	.50		.12
Group VI	10.00	.45	.50		.12
Group VII	9.75	.45	.50		.12
Group VIII	9.35	.45	.50		.12
Group IX	8.75	.45	.50		.12
Group X	8.75	.45	.50		.12
Group XI	8.75	.45	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 250' of boom or over (including jib)

GROUP II
All crane type equipment with 200' of boom or over (including jib)

GROUP III
All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment of ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

GROUP VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII
Greaser, tilt top trailer operator

GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI
Truck crane oiler driver or track crane oiler

FOOTNOTES:
a. PAID HOLIDAYS
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

SUPERSEDEAS DECISION

STATE: South Dakota COUNTY: Minnehaha
DECISION NUMBER: SD78-5102 DATE: Date of Publication
Supersedes Decision No. SD77-5086 dated September 23, 1977, in 42 FR 48722
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	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.40	.50	$1.00		.02
BOILERMAKERS	10.30	.85	1.00		.05
BRICKLAYERS; Stonemasons	11.35	.45	.40		.05
CARPENTERS:					
Carpenters; Piledriver, Drywall, Acoustical	10.16		.25		.05
Millwrights	11.12		.25		.05
CEMENT MASONS	10.10				
ELECTRICIANS:					
Electricians	10.40	.40	3%+.50		1/2%
Cable Splicers	11.44	.40	3%+.50		1/2%
GLAZIERS	8.14				
LABORERS:					
Laborers	4.35				
Mortar Mixers, Paving Breakers, Jack Hammer Operator	4.45				
Nozzleman (gunnite, sandblast and shotcrete)	4.60				
LATHERS	9.96				.01
PAINTERS:					
Brush	7.79				
Spray	8.29				
Tapers	8.04				
PLASTERERS	9.36				.01
PLUMBERS; Steamfitters	10.00	.55	.45	.43	.03
SHEET METAL WORKERS	9.97		.35	1.00	
SPRINKLER FITTERS	10.55	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: West Virginia
LOCATION: State of West Virginia excluding the Counties of Berkeley, Jefferson, Morgan, & Nicholas
DECISION No.: WV78-3018 DATE: Date of Publication
Supersedes Decision No. WV77-3101 dated July 22, 1977 in 42 FR 37773
DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments up to and including 4 stories). (See Heavy and Highway Construction General Wage Determination for all work in connection with the clearing and grading of the site, also all paving incidental to the project, and all incidental water lines and sewers utilities to within 5 feet of the building line, when such work is let as a separate contract by the owner or as a subcontract by the prime contractor).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
AREA 1	$10.77	.59	.89		.03
AREA 2	11.56	.85	.90		
AREA 3	13.10	.50	.70		.03

AREAS COVERED BY ASBESTOS WORKERS

AREA 1 - Hampshire and Hardy Counties.

AREA 2 - Barbour, Brooke, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Taylor, Tucker, Tyler and Wetzel Counties.

AREA 3 - Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Upshur, Wayne, Webster, Wirt, Wood and Wyoming Counties.

BOILERMAKERS:					
AREA 1	9.80	1.05	1.10	1.50	.02
AREA 2	9.815	7.5%	7%		.01

AREAS COVERED BY BOILERMAKERS

AREA 1 - Barbour, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood and Wyoming Counties.

AREA 2 - Hancock County.

DECISION NO. WV78-3018

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TERRAZZO WORKERS, & TILE LAYERS:					
AREA 1	10.54		.40		
AREA 2	11.13	.55	.50	a	.03
AREA 3	9.30				
AREA 4					
Bricklayers & Stone masons	11.52	.65	.75		
Marble Masons, Terrazzo workers, & Tile layers	11.45	.65	.25		
AREA 5					
Bricklayers & Stone Masons	12.64	.30	.30		
Marble Masons, Terrazzo Workers & Tile Layers	11.55	.30	.30		
AREA 6					
Bricklayers & Stone Masons	10.85	.60			
Marble Masons, Terrazzo Workers & Tile Layers	10.35	.60			
AREA 7					
Bricklayers & Stone Mason	9.63	.60	6%		.02
Tile Layers	9.48	.60	6%		.02
AREA 8					
Bricklayers, Stone Masons & Marble Masons	10.73	.50	.25		.02
Tile Setters & Terrazzo WOrkers	6.98	.50	.25		.02

DECISION NO. WV78-3018

AREAS COVERED BY BRICKLAYERS, STONEMASONS ETC

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Grant, Hardy, Harrison, Lewis, Marion, Monongalia, Pendleton, Pocahontas, Preston, Randolph, Taylor, Tucker, Upshur and Webster Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, Putnam, Raleigh, Summers and Logan Counties

AREA 5 - Cabell, Lincoln, Mason, Mingo and Wayne Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt and Wood Counties.

AREA 7 - Marshall, Ohio, Tyler and Wetrel Counties.

AREA 8 - Brooke & Hancock Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
AREA 1					
Carpenters					
Contracts under $100,000	11.00	.40	.20		.04
Contracts $100,000 or more	11.25	.40	.20		.04
Piledrivermen					
Contracts under $100,000	11.50	.40	.20		.04
Contracts $100,000 or more	11.75	.40	.20		.04
AREA 2					
Carpenters	10.45	.45	.25		.02
Piledrivermen	10.75	.45	.25		.02
AREA 3					
Carpenters	10.45	.87	.85		.02
Piledrivermen	10.24	5%	10%		½ of 1%

DECISION NO. WV78-3018

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 4					
Carpenters	12.07	.50	.35		.02
Piledrivermen	12.35	.50	.35		.02
AREA 5					
Carpenters	10.96	.40	.25		.02
Piledrivermen	11.21	.40	.25		.02
AREA 6					
Carpenters	10.17	.50	.75		.03
Piledrivermen	10.46	.50	.75		.03
AREA 7					
Carpenters	11.55	.50	.35		.02
Piledrivermen	11.77	.50	.35		.02
AREA 8					
Carpenters	11.40	.50	.35		.02
Piledrivermen	11.55	.50	.35		.02
AREA 9					
Carpenters	10.92	.50	.35		.02
Piledrivermen	11.22	.50	.35		.02

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN

AREA 1 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Pleasants, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Webster & Wetzel Counties.

AREA 2 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Greenbrier, Jackson (southern portion including the towns of Leon, Ripley & Hereford), Kanawha, Lincoln, Mason, Monroe, Pocahontas, Putnam & Roane Counties.

AREA 5 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

DECISION NO. WV78-3018

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN (CONT'D)

AREA 6 - Cabell, Mingo & Wayne Counties.

AREA 7 - Fayette, McDowell, Mercer, Summers & Wyoming Counties.

AREA 8 - Logan County.

AREA 9 - Raleigh County.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
AREA 1	10.34		.40		
AREA 2	10.70				
AREA 3	8.70				
AREA 4					
Cement Masons	11.42	.70			
Plasterers	9.10				.01
AREA 5					
Cement Masons	8.11	.40			.01
Plasterers	8.25	.25			
AREA 6					
Cement Masons	9.71	.65			.01
Plasterers	8.51	.30			
AREA 7					
Cement Masons	11.70				
Plasterers	10.25				.01
AREA 8					
Cement Masons	7.36	.38	.05	.30	.03
AREA 9	11.92	.70			
AREA 10					
Cement Masons	6.90	.35			
AREA 11	11.13	.55	.50	a	.03

DECISION NO. WV78-3018

AREAS COVERED BY CEMENT MASONS & PLASTERERS

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Mason (northern portion of the county, south to but not including Point Pleasant), Pleasants, Ritchie, Tyler, Wirt & Wood Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln (eastern half of county), Logan, Putnam, Raleigh & Roane Counties.

AREA 5 - Brooke (the northern portion of county to Buffalo Creek) and Hancock Counties.

AREA 6 - Brooke (remainder of county), Marshall, Ohio & Wetzel Counties.

AREA 7 - Barbour, Doddridge, Harrison, Lewis, Taylor, Tucker, Upshur and Webster Counties.

AREA 8 - Marion, Monongalia Counties.

AREA 9 - Cabell, Lincoln (remainder of county), Mason (remainder of county) & Wayne Counties.

AREA 10 - Greenbrier County.

AREA 11 - Grant, Hardy, Pendleton, Pocohontas & Randolph Counties.

DECISION NO. WV78-3018

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Barbour, Doddridge, Harrison, Lewis, Randolph & Upshur Counties:					
Wiremen	9.10	.50	3%+.52	2.02	.03
Cable Splicers	10.01	.50	3%+.52	2.02	.03
Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties:					
Wiremen	10.65	.50	3%+1.02	1.02	.04
Cable Splicers	10.90	.50	3%+1.02	1.02	.04
Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties:					
Wiremen	10.80	.50	3%+.32	1.02	.04
Cable Splicers	11.05	.50	3%+.32	1.02	.04
Brooke (remainder of county) and Hancock (except Grant Twp.) Counties:					
Wiremen	12.95	6%	9%	8%	½ of 1%
Cable Splicers	13.35	6%	9%	8%	½ of 1%
Cabell & Wayne Counties:					
Wiremen	11.12	.50	3%+.62	1.02	.04
Cable Splicers	11.69	.50	3%+.62	1.02	.04
Lincoln County:					
Wiremen	11.32	.50	3%+.62	1.02	.04
Cable Splicers	11.89	.50	3%+.62	1.02	.04
Logan, Mason & Mingo Counties:					
Wiremen	11.57	.50	3%+.62	1.02	.04
Cable Splicers	12.15	.50	3%+.62	1.02	.04
Mineral County:					
Wiremen	10.75	.70	3%+.25		1%
Hampshire County:					
Wiremen	10.95	.70	3%+.25		1%
Grant County:					
Wiremen	11.15	.70	3%+.25		1%
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:					
Wiremen	8.51	.30	3%		½ of 1%
Cable Splicers	8.91	.30	3%		½ of 1%

DECISION NO. WV78-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Hardy & Pendleton Counties:					
Contracts under $30,000:					
Wiremen	6.25	.50	3%		3/4 of 1%
Contracts $30,000 or more:					
Wiremen	10.00	.50	3%		3/4 of 1%
Marion, Monongalia, Taylor Preston & Tucker Counties:					
Contracts under $12,000:					
Wiremen	6.15	.50	3%+1.02	1.52	.02
Contracts over $12,000					
Wiremen	9.50	.50	3%+1.02	1.52	.02
Cable Splicers	9.65	.50	3%+1.02	1.52	.02
Hancock County - Grant Twp. Only:					
Wiremen	10.26	8%	6⅔%	8%	1%
Cable Splicers	10.66	8%	6⅔%	8%	1%
Summers & Wyoming Counties:					
Contracts $15,000 or less:					
Wiremen	8.87	.50	3%+.52	.77	.06
Cable Splicers	9.17	.50	3%+.52	.77	.06
Contractors over $15,000:					
Wiremen	11.77	.50	3%+.52	.77	.06
Cable Splicers	12.07	.50	3%+.52	.77	.06
Fayette (except Falls & Kanawha Twps.) County:					
Contractors $15,000 or less:					
Wiremen	8.67	.50	3%+.52	.77	.06
Cable Splicers	8.97	.50	3%+.52	.77	.06
Contractors over $15,000:					
Wiremen	11.57	.50	3%+.52	.77	.06
Cable Splicers	11.87	.50	3%+.52	.77	.06
Raleigh (except Clear Fork & Marsh Fork Twps.) County:					
Contracts $15,000 or less:					
Wiremen	8.37	.50	3%+.52	.77	.06
Cable Splicers	8.67	.50	3%+.52	.77	.06
Contracts over $15,000:					
Wiremen	11.27	.50	3%+.52	.77	.06
Cable Splicers	11.57	.50	3%+.52	.77	.06

DECISION NO. WV78-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boone, Braxton, Calhoun, Clay Fayette (Falls & Kanawha Twps), Gilmer, Kanawha, Putnam, Raleigh (Clear Fork & Marsh Fork Twps.), Roane & Webster Counties:					
Wiremen	11.80	.50	3%+.25	.25	.04
Cable Splicers	12.98	.50	3%+.25	.25	.04
ELEVATOR CONSTRUCTORS:					
Brooke, Hancock, Marshall Ohio Counties:					
Mechanics	10.08	.545	.35	b+c	.02
Helpers	7.06	.545	.35	b+c	.02
Probationary Helpers	5.04				
Boone, Clay, Fayette, Kanawha, Jackson, Lincoln, Putnam & Roane Counties:					
Mechanics	10.66	.545	.35	b+c	.02
Helpers	7.46	.545	.35	b+c	.02
Probationary Helpers	5.33				
Cabell, Mason & Wayne Counties:					
Mechanics	11.465	.745	.35	b+c	.02
Helpers	8.025	.745	.35	b+c	.02
Probationary Helpers	5.73				
Monongalia County:					
Mechanics	10.98	.745	.56	b+c	.025
Helpers	7.69	.745	.56	b+c	.025
Probationary Helpers	5.49				
GLAZIERS:					
AREA 1	10.13				
AREA 2	10.60		.70		
AREA 3					
Inside	5.40	.26	.20	.60+p	
Outside	6.10	.26	.20	.60+p	
AREA 4	8.42	.60	.50		.01

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AREAS COVERED BY GLAZIERS

AREA 1 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 2 - Boone, Cabell, Calhoun, Clay, Fayette, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pendleton, Pocahontas, Putnam, Raleigh, Summers, Wayne & Wyoming Counties.

AREA 3 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 4 - Marshall, Ohio & Wetzel Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS - Structural, Ornamental & Reinforcing					
AREA 1	11.67	.90	1.05		.01
AREA 2	11.28	.70	.85		.03
AREA 3	11.63	.90	1.05		.09
AREA 4	10.44	.60	.90		
AREA 5	9.55	.60	.65		.03
AREA 6					
Zone 1 - 10 miles from Union Hall	11.27	.90	1.05		.01
Zone 2 - 10-15 miles from Union Hall	11.42	.90	1.05		.01
Zone 3 - 15-20 miles from Union Hall	11.52	.90	1.05		.01
Zone 4 - 20-25 miles from Union Hall	11.62	.90	1.05		.01

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AREA COVERED BY IRONWORKERS

AREA 1 - Calhoun, Doddridge, Gilmer, Jackson, Lewis, Mason, Pleasants, Ritchie, Roane, Upshur, Wirt & Wood Counties.

AREA 2 - Barbour, Brooke, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Taylor, Tyler & Wetzel Counties.

AREA 3 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln, Logan, McDowell, Putnam, Raleigh, Webster & Wyoming Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral, Pendleton, Preston, Randolph & Tucker Counties.

AREA 5 - Greenbrier, Mercer, Monroe, Pocahontas & Summers Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
AREA 1					
Group 1	8.72	.40	.40		.03
Group 2	9.02	.40	.40		.03
Group 3	9.37	.40	.40		.03
AREA 2					
Group 1	8.26	.40	.40		.03
Group 2	8.56	.40	.40		.03
Group 3	8.91	.40	.40		.03
AREA 3					
Group 1	8.00	.40	.40		.03
Group 2	8.30	.40	.40		.03
Group 3	8.65	.40	.40		.03
AREA 4					
Group 1	8.86	.40	.40		.03
Group 2	9.16	.40	.40		.03
Group 3	9.51	.40	.40		.03
AREA 5					
Group 1	8.43	.40	.40		.03
Group 2	8.73	.40	.40		.03
Group 3	9.08	.40	.40		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 6					
Group 1	8.40	.40	.40		.03
Group 2	8.70	.40	.40		.03
GROup 3	9.05	.40	.40		.03
AREA 7					
Group 1	8.10	.40	.40		.03
Group 2	8.40	.40	.40		.03
Group 3	8.75	.40	.40		.03
AREA 8					
Group 1	8.40	.55	.40		.05
Group 2	8.50	.55	.40		.05
Group 3	8.565	.55	.40		.05
Group 4	8.60	.55	.40		.05
Group 5	8.75	.55	.40		.05
Group 6	8.78	.55	.40		.05
Group 7					
50' to 100'	8.73	.55	.40		.05
100' to 150'	8.90	.55	.40		.05
over 150'	9.30	.55	.40		.05
Group 8	9.08	.55	.40		.05
Group 9	8.645	.55	.40		.05
Group 10	8.93	.55	.40		.05
Group 11	8.73	.55	.40		.05
Group 12	9.23	.55	.40		.05

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CLASSIFICATION DEFINITION
LABORERS - AREAS 1,2,3,4,5,6,7

GROUP 1 - Laborers; carpenter tender; flagmen; water boy; demolition worker; fire watch; landscape laborer.

GROUP 2 - Powderman helper; semi-skilled laborer; scaffold builders; chainmen & rod men; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tenders; lathers tenders; tile setters tenders; mortar mixers jackhammer operators; vibrator operators; tamper operators; pavement buster operators; chipping & peening hammer operators; air sysphon & air pump operators; riprap finishers; concrete saw operators; concrete technician; power saw operators; chain saw operators; motorized buggy operators; pipelayers helpers; drill operators helpers; sheeters & Shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workmen working with acid mortar, acid brick, acid or mastic asphalt; workmen working creosote; nozzlemen for gunnite or sandblasting; tool room attendants; ride or walk roller tampers.

GROUP 3 - Blacksmith; powdermen; air track operator; pipe layer (including laser beam set-up); burner.

LABORERS - AREA 8

GROUP 1 - General Laborers

GROUP 2 - Rodmen and Chainmen.

GROUP 3 - All Brick Handlers, Tenders for Brick Masons, Plasterers, Stone Masons Tile Setters, Mortarmen for Masons and Plasterers and Men Mixing Cement for Cement Finishers, Scaffold Builders, Mortar Mixer Machine Operator.

GROUP 4 - Laborers Operating Concrete Busters, Jack Hammers, Air Spades, Chipping Hammers, Air Tampers, Vibrators, Power Buggy, Concrete Saw, Power Saw, Sandblaster, Acetylene Burners, Scuba Diver, Panel Cleaning Machine Operators, Signalmen, All Power Driven Tools, Air Pump, Air Blow Pipe, Pipelayer and Helper Working in Ditches or Tunnels and Hand Spikers on Railroads.

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GROUP 5 - Instrument Men, Laser Beam

GROUP 6 - Laborers performing work pertaining to or in connection with and repair of Stoves, Blast Furnaces, Basic Oxygen Process Furnaces and Basic Oxygen Furnaces, Steeple and Stacks, Annealing Process Furnaces, Kilns, Soaking Pits, Coke Batteries on Industrial Work.

GROUP 7 - Demolition of Stacks

GROUP 8 - Blastermen and Helper, Pellman and Lancer, All Bottom men in Blast Furnaces, Stacks, Stoves and Dust Catchers.

GROUP 9 - Ditches, Trenches, Caissons and Coffers over 6' deep, open top

GROUP 10 - Miners including Caissons and Coffers, Horizontal or Underground, Mucking Machine Operators.

GROUP 11 - Tunnel Laborers, Muckers including Caissons and Coffers, Horizontal and Underground.

GROUP 12 - Gunite Nozzleman and Gunite Machine Operator--Grout Nozzleman and Grout Machine Operator.

AREAS COVERED BY LABORERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Braxton, Doddridge, Gilmer, Grant, Hampshire, Hardy, Harrison, Lewis, Marion, Mineral, Monongalia, Pendleton, Preston, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 3 - Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers & Wyoming Counties.

AREA 4 - Cabell, Lincoln, Mason & Wayne Counties.

AREA 5 - Logan & Mingo Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties.

AREA 7 - Marshall, Ohio & Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
AREA 1	11.725		.10		
AREA 2	11.25		.20		.01
AREA 3	9.76	.50	.10		.01
AREA 4	8.98	.45	1.10		.01
AREA 5	9.315		.10		
AREA 6	10.38		.15		.01

AREAS COVERED BY LATHERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Taylor, Tyler, Upshur & Wetzel Counties.

AREA 3 - Brooke, Marshall & Ohio Counties.

AREA 4 - Hancock County

AREA 5 - Cabell, Mason & Wayne Counties

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Wirt & Wood Counties.

DECISION NO. WV78-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:					
Linemen	8.66	.35	3%		1/2 of 1%
Cable Splicers	9.06	.35	3%		1/2 of 1%
Equipment Operators	7.45	.35	3%		1/2 of 1%
Truck with earth boring auger	6.06	.35	3%		1/2 of 1%
Truck with winch & groundmen	4.76	.35	3%		1/2 of 1%
Mineral County:					
Linemen	10.15	.50	3%+.25		1/2 of 1%
Equipment Operators	9.64	.50	3%+.25		1/2 of 1%
Truck drivers & groundmen	6.60	.50	3%+.25		1/2 of 1%
Hampshire County:					
Linemen	10.35	.50	3%+.25		1/2 of 1%
Equipment Operators	9.84	.50	3%+.25		1/2 of 1%
Truck drivers & groundmen	6.80	.50	3%+.25		1/2 of 1%
Grant County:					
Linemen	10.55	.50	3%+.25		1/2 of 1%
Equipment Operators	10.04	.50	3%+.25		1/2 of 1%
Truck drivers & groundmen	7.00	.50	3%+.25		1/2 of 1%
Hardy & Pendleton Counties:					
Linemen, cable splicers & equipment operators	12.11	.45	3%		1/2 of 1%
Truck with winch, pole or steel handling	7.43	.45	3%		1/2 of 1%
Groundmen	7.17	.45	3%		1/2 of 1%
Hancock County - Grant Twp. only:					
Linemen & Equipment Operators	10.26	8%	6½%	8%	1%
Cable Splicers	10.66	8%	6½%	8%	1%
Truck Drivers & Groundmen	9.36	8%	6½%	8%	1%
Raleigh:					
Linemen & Equipment Operators	11.27	.50	3%+.52	.77	1/2 of 1%
Cable Splicer	11.57	.50	3%+.52	.77	1/2 of 1%
Groundmen	9.02	.50	3%+.52	.77	1/2 of 1%
Summers & Wyoming Counties:					
Linemen & Equipment Operators	11.77	.50	3%+.52	.77	1/2 of 1%
Cable Splicers	12.07	.50	3%+.52	.77	1/2 of 1%
Groundmen	9.42	.50	3%+.52	.77	1/2 of 1%

DECISION NO. WV78-3018	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fayette County:					
Linemen & Equipment Operators	11.57	.50	3%+.52	.77	1/2 of 1%
Cable Splicers	11.87	.50	3%+.52	.77	1/2 of 1%
Groundmen	9.26	.50	3%+.52	.77	1/2 of 1%
Marion, Monongalia, Taylor & Tucker Counties:					
Linemen & Equipment Operators	9.50	.50	3%+1.02	1.52	1/2 of 1%
Cable Splicers	10.45	.50	3%+1.02	1.52	1/2 of 1%
Groundmen & Truck Drivers	7.60	.50	3%+1.02	1.52	1/2 of 1%
Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties:					
Linemen & Equipment Operators	10.70	.45	3%+1.02	1.02	1/2 of 1%
Cable Splicers	11.77	.45	3%+1.02	1.02	1/2 of 1%
Groundmen	8.56	.45	3%+1.02	1.02	1/2 of 1%
Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties:					
Linemen & Equipment Operators	10.80	.50	3%+.32	1.02	1/2 of 1%
Cable Splicers	11.05	.50	3%+.32	1.02	1/2 of 1%
Groundmen	8.64	.50	3%+.32	1.02	1/2 of 1%
Brooke (except Buffalo Twp.) & Hancock (except Grant Twp.) Counties:					
Linemen & Equipment Operator	12.95	6%	9%	8%	1/2 of 1%
Cable Splicers	13.35	6%	9%	8%	1/2 of 1%
Groundmen	8.42	6%	9%	8%	1/2 of 1%
Barbour, Doddridge, Harrison Lewis, Randolph, and Upshur Counties:					
Linemen & Equipment Operators	9.10	.50	3%+.52	2.02	1/2 of 1%
Cable Splicers	10.01	.50	3%+.52	2.02	1/2 of 1%
Groundmen & truck drivers	7.28	.50	3%+.52	2.02	1/2 of 1%
Boone, Braxton, Cabell, Calhoun, Clay, GIlmer, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Roane, Wayne & Webster Counties:					
Linemen & Equipment Operators	11.28	.45	3%+.52	1.02	1/2 of 1%
Cable Splicers	12.41	.45	3%+.52	1.02	1/2 of 1%
Groundmen	9.02	.45	3%+.52	1.02	1/2 of 1%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TERRAZZO & TILE FINISHERS: Statewide except for the Counties of Berkeley, Brooke, Cabell, Hancock, Jefferson, Lincoln, Mason (that portion south of the Kanawha River), Morgan, Nicholas & Preston:					
Finishers	9.55	.65			
Terrazzo floor grinders	9.70	.65			
Terrazzo base grinding machine	9.80	.65			
Cabell, Lincoln, Mason (that portion south of the Kanawha River), & Wayne Counties	8.73	.30	.30		
MILLWRIGHTS:					
AREA 1	10.81	.45	.25		.02
AREA 2	10.79	.40	.37		.03
AREA 3	11.53	.40	.20		.04
AREA 4	10.37	.50	6%		.02
AREA 5	12.35	.50	.35		.02
AREA 6	11.20	.50	.55		.10

AREAS COVERED BY MILLWRIGHTS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell & Wayne Counties.

AREA 3 - Barbour, Doddridge, Gilmer, Harrison, Marion, Lewis, Monongalia, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 4 - Brooke, Hancock, Marshall & Ohio COunties.

AREA 5 - Boone, Clay, Fayette, Greenbrier, Jackson (southern portion including the towns of Leon, Rippley & Hereford), Kanawha, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pocahontas, Putnam, Raleigh, Roane, Braxton, Lincoln, Summers, and Wyoming Counties.

AREA 6 - Calhoun, Jackson (remainder of county), Pleasants, Ritchie, Tyler, Wetzel, Wirt, & Wood Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
AREA 1					
Brush, rollers, hanging wallcovering & installing seemless type floors	7.95		.50		
Spray, sandblasting & use of toxic materials	8.45		.50		
Drywall:					
Taping, spackling, sanding & finishing	9.85		.50		
AREA 2					
Painters -					
An area within 50 miles of Huntington, W.V.	8.22	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	9.47	.30	.35		.02
Vinyl & all other wall covering; drywall taping -					
An area within 50 miles of Huntington, W.V.	8.72	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	9.97	.30	.35		.02
Repaint work (limited to Public Schools) -					
An area within 50 miles of Huntington, W.V.	6.38	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	7.63	.30	.35		.02
AREA 3					
Brush, roller, paper, vinyl hangers & seamless floors	8.82	.65	.15		.01
Glove	9.07	.65	.15		.01
Perfa-taping	9.19	.65	.15		.01
Brush height over 40'	9.32	.65	.15		.01
Spray, sandblast, seemless floor epoxy & steam cleaning	9.82	.65	.15		.01
AREA 4					
Brush & roller	6.20	.50	.40		
Spray	7.20	.50	.40		
Vinyl hanging & taping	8.15	.50	.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 5					
Commercial	8.40	.50	.20	.30	
Drywall finishers	8.65	.50	.20	.30	
Swing & boat swain chair	8.75	.50	.20	.30	
Vinyl wall covering	8.90	.50	.20	.30	
Structural steel after erection	9.25	.50	.20	.30	
Repaint structural steel	8.50	.50	.20	.30	
Spray painting	9.40	.50	.20	.30	
Towers, tanks & stacks	9.65	.50	.20	.30	
Sandblasting	10.25	.50	.20	.30	
Extra pay of heights 50' to 100' (+.50 per hour); over 100' (+$1.00 per hour)					
AREA 6					
New Construction:					
Brush	9.56		.30		.01
Roller	9.82		.30		.01
Spray & Blast	10.58		.30		.01
Pot-men	10.58		.30		.01
Commercial Repaint:					
Brush	8.14		.30		.01
Roller	8.42		.30		.01
Paperhanger	9.56		.30		.01
Drywall	10.01		.30		.01
Spray, pot-men	10.58		.30		.01
Paper & vinyl hangers	9.56		.30		.01
Open structural steel	9.91		.30		.01
Drywall pointers & tapers	10.01		.30		.01
Liquid tile brush	10.33		.30		.01
Stacks, vent pipes, flag poles, electrical, radio & T.V. towers & tanks over 30' high	10.51		.30		.01
Hydroject, steam cleaning & glove work	10.58		.30		.01
Operating mechanical taping machines	11.01		.30		.01

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	REPAINT Basic Hourly Rates	NEW Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 7						
Air compressor Operator	8.36	9.18	.55			.02
Brush Painting	8.36	9.18	.55			.02
Roller, Dry-wall Pointers & Tapers Dipping & Mitten Work & Spray	8.72	9.50	.55			.02
Water Blasters, Steam Jenny Nozzle Men, Swinging Scaffold & Boatswain Chair, Window Belt & Window Jack Work	9.47	10.03	.55			.02
Brush Painters on Bridges, Needle Beam, Cable Work, Tower Tool Work, Brush & Flame Cleaning	9.90	10.41	.55			.02
Operating Mechanical Taping Machines	10.12	10.77	.55			.02
Sand Blasters	10.23	10.74	.55			.02
All Stacks, Vent Pipe, Flag Poles in excess of 30' high, all Towers, Water Towers, Elevated Tanks, Electrical Switch Yards, Transformer Banks & Television Towers	11.29	11.69	.55			.02
Vinyl hangers & Paper hangers (with tools)	8.71	9.50	.55			.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 8					
Brush & Roller:					
Commercial	8.50				
Industrial	9.75				
Commercial Spray	8.50				
Structural Steel:					
Industrial	11.50				
Paperhanging & Wallcovering under 48"	8.50				
Paperhanging & Wallcovering over 48"	9.00				
Drywall Finishing	9.50				
Drywall Machine Tools	10.10				
Power Cleaning Tools - 50¢ over appropriate scale					
Material emitting toxic vapor - $1.00 over appropriate scale					
Height clause - Additional $1.00 per hour per 100'					

AREAS COVERED BY PAINTERS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 3 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 4 - Brooke (remainder of county) & Hancock Counties.

AREA 5 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor Tucker, Upshur & Webster Counties.

AREA 6 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 7 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Pocahontas, Putnam, Raleigh, Summers & Wyoming Counties.

AREA 8 - Monongalia and Preston Counties

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS:					
AREA 1	10.02	.50	.90	10%	.04
AREA 2	10.27	.50	.90	10%	.04
AREA 3	10.52	.50	.90	10%	.04
AREA 4	10.77	.50	.90	10%	.04
AREA 5	10.45	.40	.84	1.05	.05
AREA 6	10.46	.40	7%	8%	.05
AREA 7					
Commercial Work	10.93	.40	.60		
Repair Work	10.74	.40	.60		
AREA 8					
Zone 1 - within an 8 mile radius of Cabell County Courthouse, Huntington, W.V.	10.88	.60	1.40		.02
ZONE 2 - 8 to 15 miles from the courthouse	11.08	.60	1.40		.02
ZONE 3 - 15 to 25 miles from the courthouse	11.28	.60	1.40		.02
ZONE 4 - Over 25 miles from the courthouse	11.53	.60	1.40		.02
AREA 9					
Contracts to $75,000	8.55	.45	.60		.09
Contracts above $75,000	11.42	.45	.60		.09

AREAS COVERED BY PLUMBERS & PIPEFITTERS

AREA 1 - Harrison, Marrion & Monongalia Counties

AREA 2 - Barbour, Doddridge, Lewis, Preston, Taylor & Upshur Counties.

AREA 3 - Braxton (that portion north of the southern corporate limits of the city of Sutton), Gilmer, Randolph, Tucker & Webster (that portion north of the southern city limits of Webster Springs) Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 5 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke (remainder of county) & Hancock Counties.

AREA 7 - Calhoun, Jackson (northern portion to but not including the Town of Ripley), Pleasants, Ritchie, Roane (northern portion up to but not including Spencer), Tyler, Wirt & Wood Counties.

AREA 8 - Boone (southwest portion to but not including the Towns of Madison & Whitesville), Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 9 - McDowell, Mercer, Monroe, Raleigh & Wyoming Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS:					
Plumbers	9.78	.45	.30		.05
Steamfitters	9.82	.45	.15		.05

AREA COVERED BY PLUMBERS & STEAMFITTERS

Boone (remainder of county) Braxton (remainder of county), Clay, Fayette, Greenbrier, Jackson (remainder of county), Kanawha, Pocahontas, Putnam, Roane (remainder of county), Summers & Webster (remainder of county) Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	11.62	.50	.60		.04
GROUP 2	11.12	.50	.60		.04
GROUP 3	10.72	.50	.60		.04
GROUP 4	10.32	.50	.60		.04
GROUP 5	9.32	.50	.60		.04

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

GROUP 1 - Operating cranes, derricks, tower cranes and similar equipment having a reach from the top of its boom to the ground of 175' or a lifting capacity of 70 tons; all shovels, draglines, clamshells, backhoes, endloaders and concrete mixing plants of 4 cubic yard capacity or over; hoist with 18,000 pound line pull or over.

GROUP 2 - All mechanics and those operating cranes, derricks and similar equipment; hydraulic cranes in excess of 15 tons capacity; all shovels, draglines, clamshells, gradealls, tug or tow boats; - concrete mixing plants of 3 cubic yards capacity; endloaders in excess of 2½ cubic yards capacity; backhoes in excess of ½ cubic yard capacity; hoist in excess of 5,000 pounds line pull; side boom cat, standards guage locomotive.

GROUP 3 - Hydraulic cranes up to and including 15 tons capacity; endloaders up to and including 2½ cubic yards capacity; backhoes up to and including ½ cubic yard capacity, two drum hoist, well point system, concrete mixing plants, elevators, core drills, fork lift, ross carrier, air compressor (60 CFM or Over), high compression equipment, concrete pumps double.

GROUP 4 - Trencher, air tugger, concrete mixer, (2 bag) material hoist, (single) "A" frame truck, rubber tired scraper, power grader, dozer, tractor and pan, push cat, all tractors, oiler's standard guage locomotive crane, truck cranes over 15 tons, grease truck operator and greaser, fireman, deckhand, asphalt and concrete paving equipment operators.

GROUP 5 - Roller and compactor, concrete mixer, (1 bag) Barbour Greene loader, mechanic helper, crawler crane oiler, air compressor, welding machine (gasoline powered), (gasoline powered) light plant, generator, conveyor, mechanical heater and pump operator.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
AREA 1	10.43	.60	.20		
AREA 2	11.95	.45	.30		.02
AREA 3					
Commercial:					
Roofers	11.95		.10		.01
Waterproofers	12.45		.10		.01
Unprotected roofing or reroofing:					
Roofers	8.85		.10		.01
Waterproofers	9.35		.10		.01
AREA 4					
Composition Roofers	9.05	.45	.40		
Composition Mopmen	9.30	.45	.40		
Slaters	9.20	.45	.40		

AREA COVERED BY ROOFERS

AREA 1 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 2 - Boone, Cabell, Clay, Fayette, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Putnam, Raleigh, Summers, Wayne, Webster & Wyoming Counties.

AREA 3 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt & Wood Counties.

AREA 4 - Grant, Hardy & Mineral Counties.

SHEETMETAL WORKERS:					
AREA 1	10.20		.25	2.00	.02
AREA 2	11.05	.50+e	.55		.05
AREA 3	10.14	.45	.84		.04
AREA 4	12.10	.45	.55		.04
AREA 5	11.04	.55	.44		.04

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AREAS COVERED ON SHEETMETAL WORKERS

AREA 1 - Grant, Hampshire, Hardy & Mineral Counties.

AREA 2 - Cabell, Lincoln, Logan, Mingo & Wayne Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Fayette, Greenbrier, Kanawha, Mason, McDowell, Mercer, Monroe, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 5 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Wetzel, Wirt & Wood Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
AREA 1	10.45	.87	.85		.02
AREA 2	10.17	.50	.75		.03
AREA 3	10.42	.50	.35		.02
AREA 4	10.35	.50	.35		.02
AREA 5	11.27	.50	.35		.02
AREA 6	10.56	.40	.25		.02

AREAS COVERED BY SOFT FLOOR LAYERS

AREA 1 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 2 - Cabell, Mingo & Wayne Counties.

AREA 3 - Fayette, McDowell, Mercer, Raleigh, Summers & Wyoming Counties.

AREA 4 - Logan County

AREA 5 - Boone, Clay, Greenbrier, Jackson (southern portion including the Towns of Leon, Ripley & Hereford), Kanawha, Lincoln, Mason, Monroe, Pocahontas, Putnam & Roane Counties.

AREA 6 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS:					
AREA 1					
GROUP 1	8.16	f	g		
GROUP 2	8.26	f	g		
GROUP 3	8.41	f	g		
GROUP 4	8.46	f	g		
GROUP 5	8.51	f	g		
GROUP 6	8.61	f	g		
GROUP 7	8.81	f	g		
AREA 2					
GROUP 1	7.60	q	r		
GROUP 2	7.70	q	r		
GROUP 3	7.85	q	r		
GROUP 4	8.00	q	r		
GROUP 5	8.25	q	r		
GROUP 6	8.35	q	r		
AREA 3					
GROUP 1	9.77	h	j	1.00	
GROUP 2	9.87	h	j	1.00	
GROUP 3	10.02	h	j	1.00	
GROUP 4	10.07	h	j	1.00	
GROUP 5	10.12	h	j	1.00	
GROUP 6	10.17	h	j	1.00	
GROUP 7	10.42	h	j	1.00	
AREA 4					
GROUP 1	6.10	k	i		
GROUP 2	6.20	k	i		
GROUP 3	6.40	k	i		
GROUP 4	6.45	k	i		
GROUP 5	6.50	k	i		
GROUP 6	6.88	k	i		
AREA 5					
GROUP 1	5.85	l	m	n	
GROUP 2	5.88	l	m	n	
GROUP 3	5.90	l	m	n	
GROUP 4	6.00	l	m	n	
GROUP 5	6.08	l	m	n	
GROUP 6	6.13	l	m	n	
GROUP 7	6.16	l	m	n	
GROUP 8	6.43	l	m	n	
GROUP 9	6.50	l	m	n	
GROUP 10	6.53	l	m	n	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 6					
GROUP 1	7.75	o			
GROUP 2	7.76	o			
GROUP 3	7.80	o			
GROUP 4	7.83	o			
GROUP 5	7.85	o			
GROUP 6	8.08	o			
GROUP 7	8.38	o			
GROUP 8	8.48	o			
AREA 7					
GROUP 1	7.56	.60	.70		
GROUP 2	7.71	.60	.70		
GROUP 3	7.91	.60	.70		
GROUP 4	8.10	.60	.70		
GROUP 5	8.34	.60	.70		

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS - AREA 1

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, flatbody material truck (straight job), greasers, washers, tiremen, gas pumps attendants, dump trucks (up to 5 cubic yards)
GROUP 2 - Tank truck (straight)
GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi-trailers, (whether flat rack, or pole and hauled or pushed by truck or tractor), agitator or mixer trucks (up to 5 cubic yards), farm type tractor, tank truck (semi).
GROUP 4 - Low-Boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.
GROUP 5 - Material checker and receiver, mechanics helpers.
GROUP 6 - Agitator or mixer truck (5 cubic yards and over).
GROUP 7 - Mechanics, euclid, dumpster, turnarocker, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

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TRUCK DRIVERS AREA 2

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks.
GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), greasers, washers, tiremen, gas pump attendants, mechanic helpers, material checkers & receivers, tank truck (straight).
GROUP 3 - Dump trucks (5 cubic yards & over), semi-dump trucks, semi-trailer (whether flat, rack or pole and hauled or pushed by truck or tractors), agitators or mixed trucks (up to 5 cubic yards), tank trucks (semi), monorais.
GROUP 4 - Low-boy trailers, winch trucks, fork truck, distributor trucks (front and back end), truck crane, agitators or mixer trucks (5 cubic yards & over), hydraulic tail gate, farm type tractors.
GROUP 5 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons or similar equipment, A-frame, hydrolift, dual purpose trucks.
GROUP 6 - Mechanics.

TRUCK DRIVERS - AREA 3

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, flatboat material truck (straight job), greasers, washers, tiremen, gas pump attendants, dump trucks (up to 5 cubic yards)
GROUP 2 - Tank truck (straight)
GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi trailers (whether flat rack or pole and hauled or pushed by truck or tractors), agitator or mixer trucks (up to 5 cubic yards), tank truck (semi)
GROUP 4 - Low-boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.
GROUP 5 - Material checker and receiver, mechanics helpers.
GROUP 6 - Agitator or mixer truck (5 cubic yards and over).
GROUP 7 - Mechanics, tri-axle dump trucks, hydraulic lift tailgate truck and farm type tractors, end dumpsters, turnarockers, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

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TRUCK DRIVERS - AREA 4

GROUP 1 - Warehouse, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, team 2 - up.
GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), material checkers, material receivers, team 4 - up, greasers, tiremen and mechanic helpers (truck)
GROUP 3 - Semi-dump truck, semi-trailers (flat rack or pole), low-boy trucks, distributor trucks, agitators or mixer trucks (up to and including 5 yards) dump trucks and dumpster (5 to 12 yards).
GROUP 4 - Dump truck, agitator or mixer trucks and other hauling equipment (12 yards to 20 yards), mucker trucker, rubber-tired tractors (towing or pushing)
GROUP 5 - Dump truck, agitator or mixer trucks and other hauling equipment (20 yards and over)
GROUP 6 - "A" Frame operator, mechanics (truck).

TRUCK DRIVERS - AREA 5

GROUP 1 - Flat bed material trucks, dump trucks, semi-dump trucks.
GROUP 2 - Tank trucks (straight & semi).
GROUP 3 - Semi-trailers, tractor trailers.
GROUP 4 - Pole trailer.
GROUP 5 - Agitator & mixer trucks (up to 5 cubic yards)
GROUP 6 - Euclids, dumpsters, turnarocker, ross carriers, athey wagons.
GROUP 7 - Agitator & mixer trucks (over 5 cubic yards)
GROUP 8 - Low-boy trailers, winch trucks, ford trucks (front and back end) truck crane.
GROUP 9 - A-Frame.
GROUP 10 - Mechanics.

TRUCK DRIVERS - AREA 6

GROUP 1 - Warehousemen, yardmen, truck helpers.
GROUP 2 - Greasers, washers, tiremen, gas pump attendants, mechanics helpers.
GROUP 3 - Flatboy material trucks, dump trucks, semi-trucks.
GROUP 4 - Tank trucks (straight & semi)
GROUP 5 - Semi-trailers & tractor trailers.
GROUP 6 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons.
GROUP 7 - Low-boy trailers, winch trucks, A-frame, fork trucks, distributor (front & back end), truck crane.
GROUP 8 - Mechanics.

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TRUCK DRIVERS - AREA 7

GROUP 1 - Dumpmen & flagmen.
GROUP 2 - Pick-up trucks, dump tracks under 5 yard capacity, straight trucks.
GROUP 3 - Panel trucks, straight truck with multiple axle, dumpsters under 5 yard capacity, transit mix, dump trucks from 5 to 9 yards capacity, flat body material trucks (straight jobs), greasers, tiremen & mechanic helpers, rubber-tired (towing or pushing flatbody vehicles), & form trucks.
GROUP 4 - Dump trucks 10-15 yard capacity.
GROUP 5 - Dump trucks over 15 yard capacity, bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frames, mechanics, semi-trailer or tractor trailers, low boy trucks, asphalt distributor trucks, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, off-highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

AREAS COVERED BY TRUCK DRIVERS

AREA 1 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Pocahontas, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 3 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 4 - Barbour, Doddridge, Harrison, Lewis, Marion, Monongalia, Randolph, Taylor, Tucker & Upshur Counties.

AREA 5 - Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke & Hancock Counties.

AREA 7 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

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Welders - Receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holiday: Christmas Day.

b. Paid Holidays: A through F.

c. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

d. Employer contributes 2¢ per hour per employee from June 1 to December 31.

e. Employer contribution of 3% per hour to the Sasmi Fund per employee and is based on the basic hourly rate, plus pension, plus health and welfare.

f. Employer contributes $41.16 per month per employee employed 30 days or more.

g. Employer contributes $34.67 per month per employee.

h. Employer contributes $93.17 per month per employee employed 30 days or more.

i. Employer contributes $26.00 per month per employee employed 30 days or more.

j. Employer contributes $60.67 per month per employee employed 30 days or more.

k. Employer contributes $28.50 per month per employee employed 30 days or more.

l. Employer contributes $6.30 per week per employee.

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m. Employer contributes $6.00 per week per employee.

n. One week's paid vacaition.

o. Employer contributes $19.00 per week per employee.

p. Paid Holidays: A through F, plus Christmas Eve.

q. Employer contributes $93.17 per month per employee employed 30 days or more.

r. Employer contributes $26.00 per month per employee employed 30 days or more.

[FR Doc. 78-15780 Filed 6-8-78; 8:45 am]

federal register

FRIDAY, JUNE 9, 1978
PART IV



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

Food Labeling

Public Hearings

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78N-0158]

FOOD LABELING

Hearings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA), and the Federal Trade Commission (FTC) announce a series of five public hearings to discuss several issues related to food labeling, including ingredient labeling, nutrition labeling, and imitation foods.

DATES AND LOCATIONS: August 22-23, 1978—Century II Theater, 225 West Douglas, Wichita, Kans. September 18-19, 1978—Little Rock Convention Center, Robinson Auditorium, Room 102 or 103, Markham and Broadway, Little Rock, Ark. September 27-28, 1978—HEW Auditorium, 330 Independence Avenue, SW., Washington, D.C. October 12-13, 1978—Fremont Building, 215 Fremont Street, EPA Conference Room, 6th floor, San Francisco, Calif. October 25-26, 1978—Howard Johnson's 57 Motel, 200 Stuart Street, Boston, Mass.

FOR FURTHER INFORMATION CONTACT:

Taylor Quinn, Bureau of Foods (HFF-300), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20240, 202-245-1243.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs announced in October 1977 his intention to hold hearings on the broad subjects of ingredient labeling, nutrition labeling, food fortification, and related matters. As explained in his announcement, such hearings are essential in order to gather information and opinions on the subject of food labeling. This public input will in turn provide a basis for development of a comprehensive strategy aimed at providing consumers with useful nutrition-oriented information on the labels of all food products.

Representatives from FDA, FTC, and USDA have been meeting regularly since the announcement of the hearings in order to work out the details of the hearings and identify the subjects that need to be discussed. The hearings will be limited to discussions on the following topics:

1. Ingredient labeling.
2. Nutritional labeling and other dietary information.
3. Open date labeling.
4. Imitation and substitute foods.
5. Food fortification.
6. The total food label.
7. Safe and suitable ingredients.

A discussion on each of the above topics is published as an appendix to this notice. Copies of the discussion are also on file in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Additional copies may be obtained from FDA offices located in most major metropolitan areas and from the contact person identified above.

The hearings will be open to the public and will be held on the dates and at the locations listed above. Each hearing will begin at 9:30 a.m. and will be presided over by either an FDA or USDA representative. All seven topics will be discussed at each hearing.

The hearings will be conducted in accordance with Title 21 of the Code of Federal Regulations, Part 15—Public Hearing Before The Commissioner. Any person who desires to make a presentation at a particular hearing may do so by simply indicating this wish at the time of the hearing. However, for scheduling purposes, we encourage those who can to fill out and return the notice of participation form attached to this notice to Taylor Quinn at the address given for him above.

Individuals or organizations will be allowed only one opportunity to present their views in the course of the five hearings. Consumers with no organizational affiliation will be allowed to present their views first at each hearing. These are public hearings and are open to all interested parties. However, organized consumer groups as well as regulated industries and their associations are experienced in the use of other avenues for making their views known to the agency, including making written submissions in response to FEDERAL REGISTER notices. It is the special aim of these national hearings to provide an avenue for the expression of the views of individuals. In allocating time at the hearings, therefore, we intend to extend preference to such submissions. Those who are unable to appear in person may submit information and views in writing to the Hearing Clerk by close of business November 10, 1978, at the address given above. Written submissions will also be accepted at the time of each hearing for those who want additional information included in the record. Consumers with no organizational affiliation may submit a single copy of their information and views, but others should submit four copies. The submissions should be identified with the docket number found in brackets in the heading of this document. Received submissions may be seen in the office of the Hearing Clerk from 9 a.m. to 4 p.m., Monday through Friday.

Dated: June 2, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

FOOD LABELING HEARINGS
NOTICE OF PARTICIPATION

Please enter participation of: _____
(Name

_____
(Street Address)

_____
(City, State, Zip Code)

I am representing (if other than self): _____

_____

1. I will make an oral presentation at the _____
(Name of City)

Food Labeling Hearings. I request _____ minutes for my presentation.

I will be speaking on the following topics:

and/or

2. I am submitting for the record the attached comments on the following food labeling topics:

TOPICS

[] Ingredient Labeling
[] Nutrition/Dietary Labeling
[] Open Dating
[] Imitation and Substitute Foods
[] Food Fortification
[] Total Food Label
[] Safe and Suitable Ingredients

_____
(Signature)

INTRODUCTION

Federal laws governing the labeling of food are enforced by the United States Department of Agriculture (meat and poultry products) and the Food and Drug Administration (all other food). These Federal laws were originally passed in 1906, and although some revisions have been made since then, the basic concepts with respect to food labeling have remained unchanged for about 40 years. Significant advances in food technology during this time, coupled with increasing demand for extensive and sophisticated information about food products and increasingly antiquated statutes, have led to a complex set of food labeling regulations.

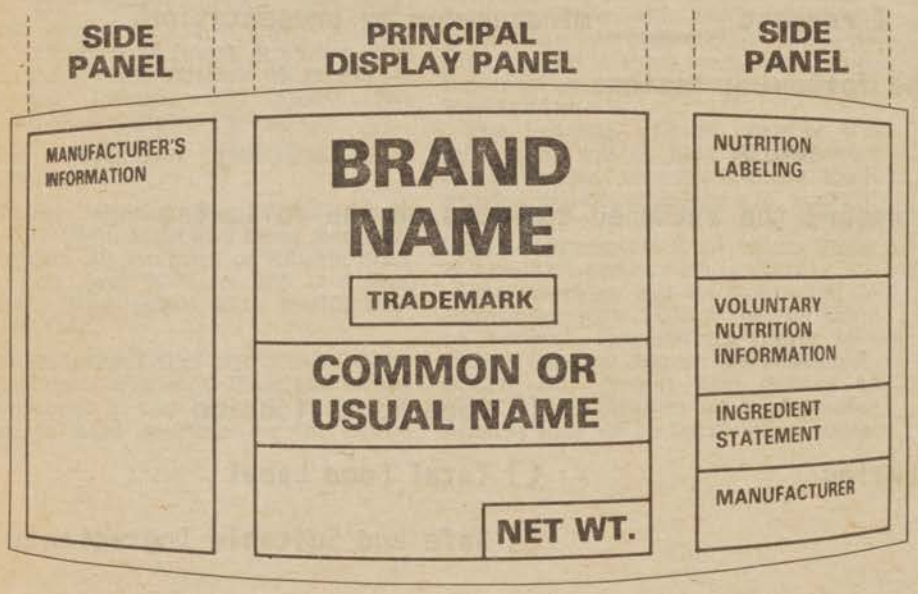
The current goal of the Food and Drug Administration (FDA) and the United States Department of Agriculture (USDA) is the development of an overall labeling strategy that provides consumers with information they want and need. In order to achieve this goal, a number of programs are underway including an audit of existing regulations to determine whether labeling regulations are adequate and to identify candidates for simplification, improved internal consistency, or elimination. The Federal Trade Commission (FTC) is also interested in food labeling because of its responsibility for regulating food advertising.

As part of the comprehensive review of food labeling, FDA, in cooperation with USDA and FTC, is seeking comments from consumers and other interested groups through public hearings. These hearings will elicit public concerns and ideas about:

Ingredient labeling.
Nutrition labeling and other dietary information.
Open date labeling.
Imitation and substitute foods.
Food fortification.
The total food label.
Safe and suitable ingredients.

As an aid in focusing the discussion of these issues, background information and specific questions are provided for each topic. References are also furnished for a few pertinent statutory provisions, regulations, and judicial decisions. To aid in understanding food labeling terminology, examples of food labels are provided. Label No. 1 shows the principal food labeling elements.

LABEL 1



INGREDIENT LABELING

In this section, we discuss how ingredients are listed on labels of both standardized and nonstandardized food. Comments are desired on these related topics:

Listing of ingredients in order of predominance.
Quantitative ingredient listing.
Percentage of ingredient as part of product name.
Names of ingredients.
Changes in ingredients.

LISTING OF INGREDIENTS IN ORDER OF PREDOMINANCE

Government regulations called standards of identity define the composition of many foods, state which optional ingredients may be used, and specify those ingredients which must be declared on the label. Examples of standardized foods are most canned fruits and vegetables, milk, cheeses, ice cream, breads, margarine, and certain seafoods, sweeteners and food dressings. Required or mandatory ingredients used in such standardized foods are exempt by law from label declaration. FDA has sought the legal authority to require the declaration of mandatory ingredients for a number of years. Proposed laws would require listing of ingredients in all foods, whether standardized or not.

Earlier standards required declaration of only a limited number of optional ingredients since the specific ingredients which could be used were named in the standard. Most standards have been or are being revised to permit greater flexibility in the use of ingredients and, at the same time, to require the declaration of all optional ingredients. The law requires, with few exceptions (e.g. spices, flavors, colors), the label declaration of all ingredients in foods which are not standardized. Labels for all meat and poultry products, whether standardized or not, must list ingredients. Government regulations require that whenever ingredients must be declared on the label, the ingredients must be listed in descending order of predominance by weight.

Label No. 2 for canned peas shows the listing of ingredients in order of predominance.

1. Some people may not know that food ingredients are listed on labels in the order of predominance. Should the label state that foods are listed in order of predominance?

2. Should exceptions be permitted from the order of predominance requirement for ingredients present in small amounts, such as spices or food colorings? FDA permits few exceptions, but some think we should be more flexible to permit minor changes in ingredients in order to keep costs down.

QUANTITATIVE INGREDIENT LISTING

Some consumer representatives have proposed requiring that labels for all food declare the percent of ingredients in the ingredient statement. Bills to do this have been introduced into Congress. On September 7, 1976, FDA published a proposal requiring percentage ingredient labeling for infant foods. Use of percentage ingredient listing would provide an ingredient statement such as the following for canned peas:

Ingredients: Peas 65 percent, Water 32 percent, Sugar 2 percent, Salt 1 percent

There are other ways of declaring the amount of ingredients, such as giving the weight of each ingredient per ounce or gram of food.

3. Should labels for all foods declare the amount of ingredients in the product? How would quantitative ingredient labeling be more helpful than the present method of listing ingredients in descending order of predominance? Should the amount of each ingredient

be declared using percentages or some other method?

4. Do you see any value in knowing the amount of ingredients present in small amounts, for example, spices, and flavorings? Do you favor a cutoff level below which ingredients present in small amounts would have to be listed, but not the amount? If so, what should the cut-off level be?

5. Should a cost/benefit study be conducted to help the government arrive at a decision on quantitative ingredient labeling, or should the decision be made on other grounds, such as the consumer's "right to know?" If you think cost should be a consideration, would you be willing to pay for the information? How much?

6. The FDA proposal for infant foods would require percentage ingredient labeling in 5 percent increments. This means that the amount of each ingredient present would be declared by rounding off to the nearest 5 percent. Would this degree of accuracy be satisfactory for all foods? If not, what increments would be better?

Percentage of Ingredients as Part of Product Name

FDA requires a declaration of the percentage of some "characterizing" ingredients as part of the name of some foods when the amount of the ingredients has a material bearing on the consumer's acceptrance of the food. For example, if a shrimp cocktail consists of 50 percent shrimp, the official name of the product is "Shrimp Cocktail—Contains 50 Percent Shrimp."

7. Should a declaration of the percentage of characterizing ingredients as part of the name of food be required for more foods? Which foods? Which ingredients in those foods do you consider to be characterizing? How important a priority is this to you?

Name of Ingredients

Most ingredients must be listed on the label by the specific name of the ingredient. There are some exceptions to this rule. Under the law, spices, flavorings and colors may be declared in the ingredient statement without naming the specific ingredient used. Furthermore, generic or collective names can sometimes be used instead of the specific name. (Example: whey can be declared when it is reconstituted whey. See Label No. 3 for American Cheese Food.) Some consumers are confused by long chemical names, while others want some specific information about ingredient identity because they may be allergic to certain ingredients.

8. Do you favor changing the law to require listing of specific spices, flavors and color ingredients?

9. Are specific names of certain ingredients confusing? What changes do you suggest?

10. Under the law, artificial color may be used in butter, cheese and ice cream without the label declaring the presence of the color. Do you think this exemption should be changed?

11. The regulations allow for some flexibility in the declaration of a fat or oil ingredient. For example, a vegetable oil may be declared as follows: "vegetable oil shortening (contains one or more of the following: soybean oil, palm oil, and/or corn oil)." Food producers indicate that such labeling allows flexibility in purchasing fats or oils according to best available price. Do you believe such labeling should be permitted? Should this method of labeling be extended to other instances where multiple ingredients are similary interchangeable?

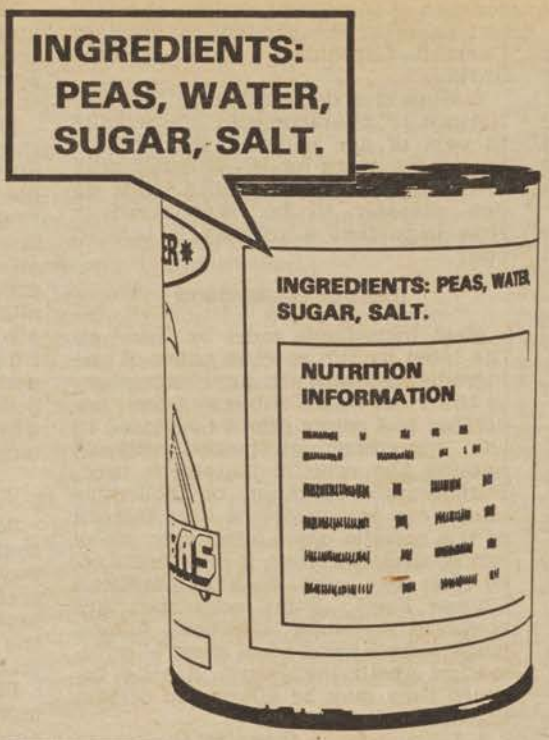
Changes in Ingredients

Some consumers want to require that food labels be flagged in some way when a change is made in the ingredients used. This is because once a product has been used for some time, the consumer might not realize that an ingredient change was made.

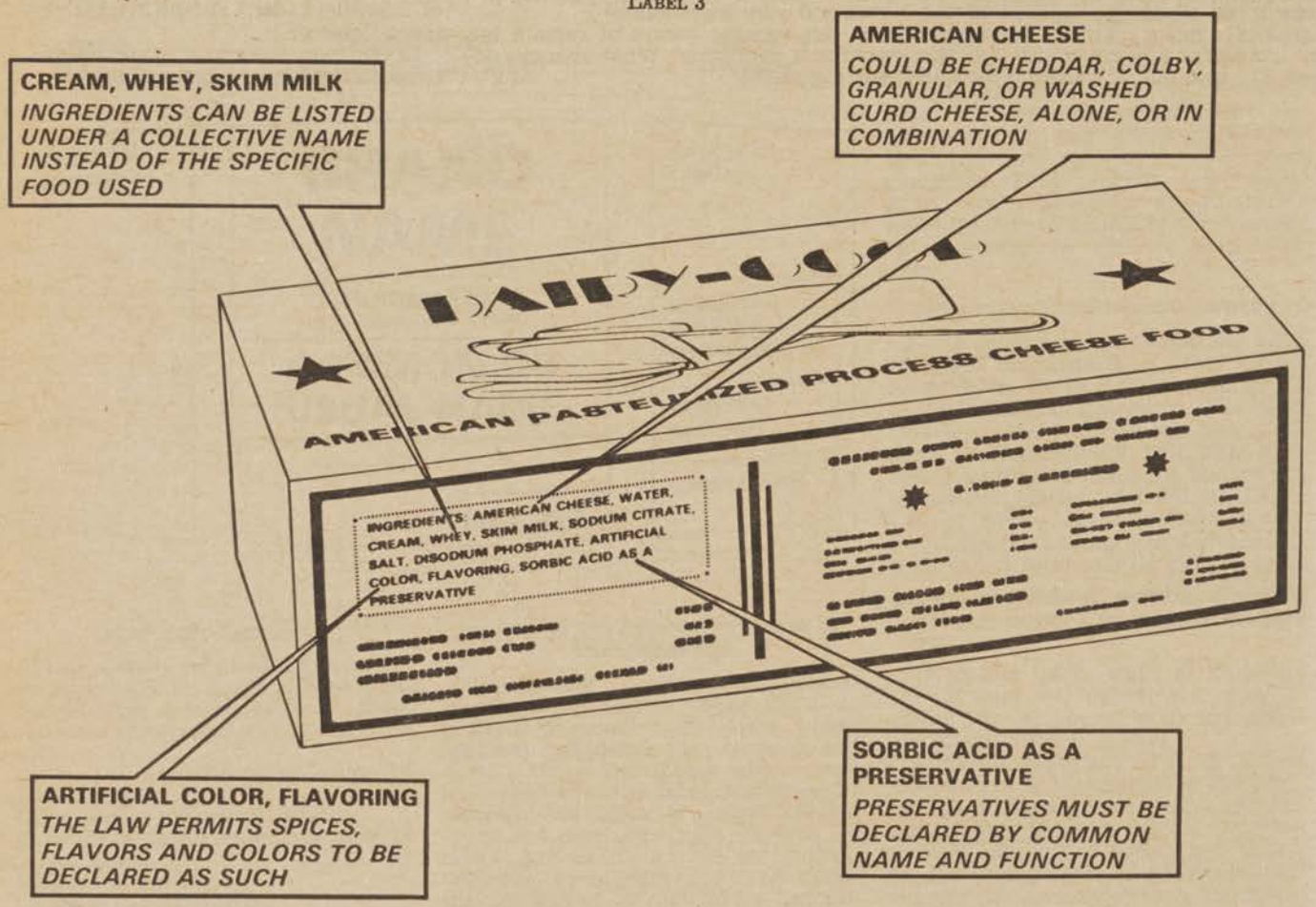
12. Do you believe that a change in ingredients should be prominently noted on the label? What kind of change (any new ingredient, removal of ingredient, etc.) should trigger the special notice?

13. Do you have any other suggestions on ingredient labeling?

LABEL 2



LABEL 3



NUTRITION LABELING AND OTHER DIETARY INFORMATION

BACKGROUND

Nutrition labeling is quite new. Consumer interest in nutrition labeling came into focus in late 1969 at the White House Conference on Food, Nutrition and Health. Different ways to present nutrition information on the food labels were studied during 1970 and 1971. In 1972, FDA proposed a system for nutrition labeling, and many comments from consumers, scientists, industry, and other government agencies were received. The proposal was modified and issued as a final regulation in 1973. Nutrition labeling began to appear in grocery stores in 1973, and its use has expanded greatly since then. Many billions of dollars worth of our foods are known to be nutrition labeled, but what proportion of our total $120 billion annual food bill is accompanied by such labels is not known. An FDA nationwide survey to find the answer will be finished this summer.

Nutrition labeling is partly a voluntary program. It becomes mandatory only when a processor makes any kind of claim about the food's nutritional value in labeling or advertising, or when the food is enriched with any essential nutrients. The program applies to foods regulated by FDA (most foods, except meat and poultry which are regulated by USDA). USDA has also approved the use of the same type of labeling on many types of processed meat and poultry products. When a food label contains nutrition information, that information must be provided in a standard format: Serving size, servings per container, and then for each serving—the calories and protein, carbohydrates and fats in grams, followed by protein and a minimum of seven specified vitamins and minerals in terms of the percentage of the U.S. Recommended Daily Allowances (U.S. RDA's). Quantitative information on the content of other vitamins and minerals, sodium and potassium, cholesterol, and polyunsaturated and saturated fatty acids may also be included in a standardized way. The standardized way of presenting all this information is thought to be important to avoid confronting the consumer with multiple ways of expressing the same information. Typical examples of nutrition labeling are shown as Labels Nos. 4 (Corn Flakes) and 5 (Salad Dressing).

The basic purpose of nutrition labeling is to provide accurate nutrition information about each food. There are four basic constraints to this:

The law does not provide FDA with express authority to require nutrition labeling on all foods.

Nutrition labeling may be costly because of the expense of analyzing products for nutrient content. FDA does not wish to take steps that would significantly increase food prices unless there is an important public health reason for doing so.

Knowledge of the nutrient content of some foods and the natural variation in this content is poor. This is particularly true of fresh fruits and vegetables, which are specifically exempted from the nutrition labeling regulation for this reason.

Knowledge about nutrition generally is quite limited. For example, we do not yet know all the effects of nutrients on health.

SOME ISSUES

Current nutrition labeling policies and regulations are considered by the government to be a good first step in the right direction, but it is recognized that the current system may not be the best possible. Consumer research studies are underway to try to improve nutrition labeling, but the government also needs help through the public hearing process. The current studies focus on the specific kinds of information needed and wanted as well as the most understandable way to present the information. After five years of experience in the marketplace, the time has come to consider the need for change.

A very important question is whether nutrition labeling is useful. The key to this issue is proper education in how to use nutrition information in selecting well-balanced diets and to minimize consumption of those food components that some consumers may wish to avoid for health or other reasons.

1. Do you think nutrition labeling is useful? If not, do you think it can be made useful through other programs. If so, what programs?

2. On what kinds of food should nutrition labeling be required? Do you think it would be useful to require nutrition labeling on all foods? Would you be willing to pay more for foods that provide this information?

One problem concerns the way information is presented.

Serving sizes are expressed in common household measures (ounces, teaspoons, pieces, etc.).

Calories are expressed as calories in a serving.

Sodium, potassium and cholesterol are in milligrams.

Protein, vitamins and minerals are in percentage of the recommended daily allowances (U.S. RDA's).

Some nutrients (e.g. sugar) are expressed in grams per serving.

This degree of complexity may ultimately prove to be necessary because there may not be a better way, but the subject needs to be explored. For example, a suggestion has been made that all the nutrients be declared as amounts in the metric system (milligrams, etc.) per 100 calories, or that nutrients be declared as percentages of the daily allowance per 100 calories. This suggestion is referred to as the "nutrient density" concept. Another part of the problem is whether or not it would be better to eliminate as many numbers as possible, switching to some form of pictorial representation such as bar graphs or circular wedge charts ("pie charts"). It is also possible to combine nutrient density with pictorial methods. It is important, however, to think about how much education would be required to understand either one or both of these approaches. In addition, a system could conceivably be devised under which nutrition labeling would appear as words describing each food as an excellent, good, fair, poor, or zero source of each nutrient. These descriptive words would, of course, have to be defined in quantitative terms by regulation, but the quantities themselves need not appear on the label.

3. Rather than providing information in metric units and % U.S. RDA's, should some other approach be used, such as nutrient density? Or should a system be devised that would permit simplification of labeling so that foods could be stated to be excellent, good, fair, poor, or zero sources of each nutrient? Do you have suggestions on how this might be done? If such changes were made, what implications would the change have for nutrition education?

4. Should the format be changed to include as much of the information as possible in graphic or pictorial form? Do you have suggestions on how to do this?

5. Do you think it would be possible to develop a "nutrition score" for each food? If so, how would you do it?

6. Do you think the current nutrition label has too much or too little information? If too little, what further information do you think should be included? If too much, what information do you think should be eliminated?

7. Do you have other suggestions on how to present nutrition information to consumers?

Another problem is the actual information itself. The information currently provided consists primarily of energy and nutrients known through nutrition research to be needed by humans. There is concern, however, whether this is sufficient. Some persons have suggested that the label give more information about substances in food that some consumers want to avoid for health or other reasons. Primarily because of tooth decay problems, some feel that carbohydrate information should be increased to show the quantity of sugar (sucrose) and other simple carbohydrates as compared with the quantity of starches

and other comples carbohydrates. (This type of information is now voluntarily provided on the labels of many read-to-eat breakfast cereals, but is not required by FDA.)

There also is interest in more explicit information on salt or sodium content primarily because of high blood pressure problems, and some concern about the need for more information on vitamins and minerals that may be in short supply in some American diets, such as folic acid and zinc. Coupled with these specific types of additional information is the matter of prominence of display. Some feel that the content of certain components should not only be declared on the nutrition label itself, but should be routinely emphasized on the front of the label; for example, the content of calories, percentage of sugars, salt, and cholesterol. Many of these concerns are brought out in the recent publication from the Senate Select Committee on Nutrition and Human Needs entitled "Dietary Goals for the United States" (Second Edition, December 1977, 95th Congress, 1st Session, U.S. Government Printing Office, Washington, DC 20402). This year, FDA will propose that sodium and potassium content be declared on all nutrition labels. The agency also is considering ways to improve cholestrol labeling, and is in the process of developing a policy on sugar labeling.

8. If you were on a special diet, how could food be better labeled to help you to make food purchases wisely?

9. Do your think information on certain constituents should be required on the label; for example, amount of calories, sugars, sodium, fiber and/or cholesterol? Are there other examples? Should this type of information be provided on the nutrition label, on the principal display panel, or in both places?

10. Some consumers have suggested that the percentage of sugar in certain foods be declared as part of their names because they believe the amount of sugar is important to consumers for various reasons. Do you think that more information should appear on the label about the percentage or amount of sugar in food? For which foods should this information be provided? Should the amount of all sugars in the food be declared, including sugars added as a separate ingredient and those present in other ingredients? How should this information be presented on the label?

A related issue is how far we should go in determining when dietary information may be included in labeling claims or in the names of food. FDA is developing a definition for "low cholesterol" and "cholesterol reduced foods."

11. A similar problem exists concerning the sodium or salt content of foods.

Should the government continue to develop systems for determining when labeling can make claims describing food as "cholesterol free", "low sodium", etc. Or is it better simply to provide consumers with quantitative information without further attempts to describe the nature of the food?

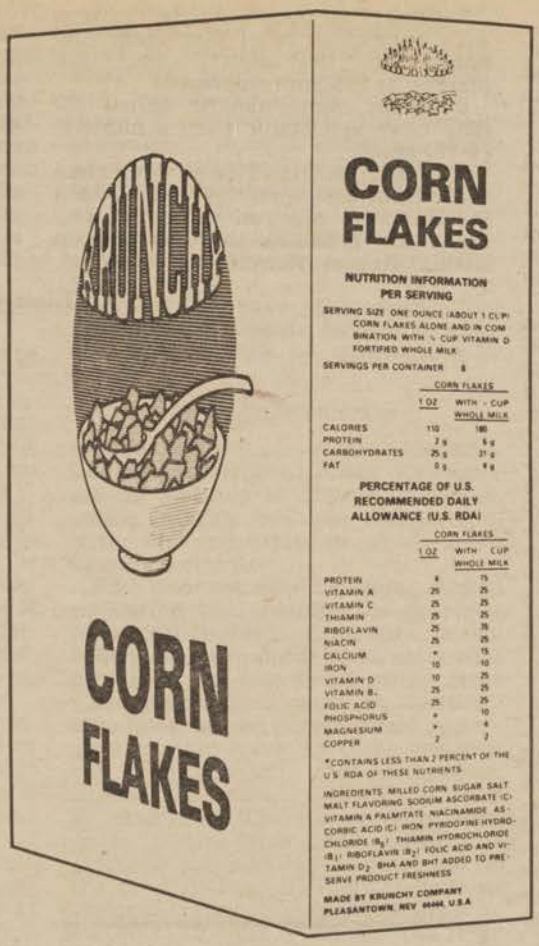
FDA has generally objected to claims in food labeling that a nutrient or other ingredient will cure or prevent a disease. These claims may make the food a drug, subject to the requirements governing drugs, including the requirements that the product be effective for the claimed purpose.

Furthermore, no disease-related or other claim can be made in food labeling if the claim is misleading. FDA has believed that it is difficult to phrase disease-related claims without being misleading because the subject may be scientifically controversial and because it is the total daily diet, not individual food items, that determines nutritional health or reduces risk of diet-related diseases. FDA has, for example, taken the position that it would be misleading to suggest that use of a specific low cholesterol food will prevent heart disease.

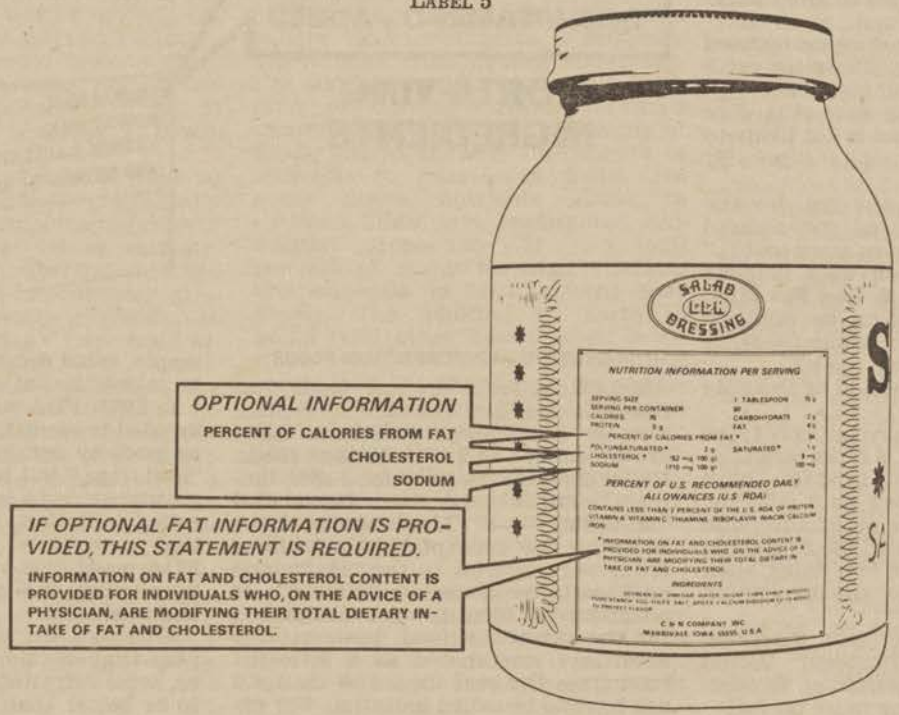
12. Should labels be permitted to contain statements about the relationship between use of the food and the prevention of diseases? If so, what type of evidence should be required in support of such statements? Does such disease information belong more properly in the classroom and doctor's office?

13. Are there other types of dietary information that should be included in food labeling?

LABEL 4



LABEL 5



OPTIONAL INFORMATION

PERCENT OF CALORIES FROM FAT

CHOLESTEROL

SODIUM

IF OPTIONAL FAT INFORMATION IS PROVIDED, THIS STATEMENT IS REQUIRED.

INFORMATION ON FAT AND CHOLESTEROL CONTENT IS PROVIDED FOR INDIVIDUALS WHO, ON THE ADVICE OF A PHYSICIAN, ARE MODIFYING THEIR TOTAL DIETARY INTAKE OF FAT AND CHOLESTEROL.

OPEN DATE LABELING

An open date represents a calendar date on a food package indicating product freshness. It tells either when a product was packaged or processed, when the product should be sold by the store, or when the product should be used by the consumer. Open dating is voluntary under federal law, but mandatory for perishable foods in a few local jurisdictions. Some manufacturers voluntarily provide open date labeling.

With limited exception, the open date does not have to be accompanied by prefixes such as "Sell By," "Use By," or "Better If Used By" that tell the consumer its meaning. The exception relates to meat and poultry food products covered by the Federal Meat and Poultry Inspection Acts, which represent 25 to 30 percent of the food sold in grocery stores. Under regulations administered by USDA's Food Safety and Quality Service, if a calendar date is shown on the label of a meat or poultry food product, it must be explained in terms of "packing" date, "Sell By" date, or "Use Before" date.

Alternatively, USDA allows processors to label meat and poultry products with statements such as "Full freshness 10 days beyond date shown, when stored at 40° F or below." However, such labeling must be supported by test data that show that the statement is true. USDA also requires frozen or refrigerated meat and poultry products to be labeled "Keep Frozen" or "Keep Refrigerated."

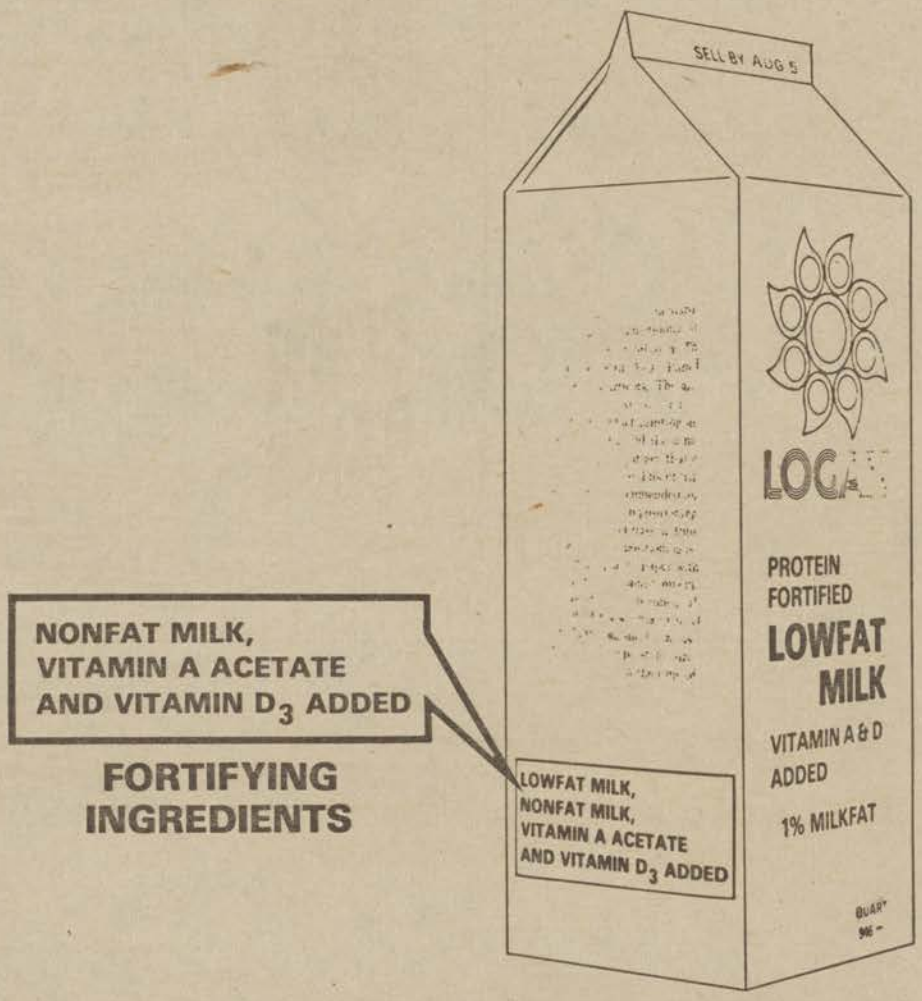
Four types of open dates are in common use:

1. Pack date—the date of final packing.
2. Pull date—the last recommended day of retail sale that allows for sufficient home storage and use time.
3. Quality assurance date—the date after which the product is not likely to be at peak quality, e.g., "Sell By (date)."
4. Expiration date—the last day the product should be used for assured quality, e.g., "Do not use after (date)."

An example of open date labeling appears on Label No. 6, Low Fat Milk.

1. Should open dating be required for all foods, only perishable foods, or only selected perishable foods?
2. Should an explanation of the date shown be required?
3. Which of the four common types of open date labeling is most meaningful? Should different products have different types of open date labeling, such as pull dates for perishables and pack dates for canned food? Should certain products have two dates, such as the pull date and the expiration date?
4. Should storage and handling instructions be mandatory? Would home storage and handling instructions make open dating more useful?
5. Should all open dates be uniform with respect to label placement and application techniques, i.e., ink marked or pressure embossed?
6. Is an alpha-numeric (April 18) date more acceptable then a numeric (4-18) date?
7. Is open dating of more value than other information on the label? Which information? Are you willing to pay more for products that have open dating? How much more per week?
8. How often are foods thrown out because the open date on the package is considered to be a throwout date?
9. Would a labeling sticker that changed color, say from white to red, when temperature or time had affected the product be a more meaningful way of informing about the freshness of a food product?
10. Do you favor allowing retailers to sell "out of date products" (such as day old bread)?

LABEL 6



IMITATION AND SUBSTITUTE FOODS

Substitute foods are any foods that resemble and are intended to replace another food. Some substitute foods are considered to be "imitation" foods. Under Federal law, any food that imitates another food must be labeled "imitation ——." Traditionally, FDA accepted the concept that substitute foods were inferior to the "real" food and has to be labeled as imitations. If a standard of identity were established for the substitute food, however, the substitute was viewed as a different food from the real food, and thus did not have to be called imitation. For example, salad dressing does not have to be called "Imitation Mayonnaise."

In 1973, FDA reviewed its policy and decided to identify nutritionally inferior foods by requiring them to be called "imitation," but to allow all other substitute foods to be sold without being called imitation, if they bore a name that accurately described the food. FDA made this change because it believed that the meaning of imitation was confusing.

Although the name "imitation" implies that the substitute food is inferior, some substitute foods may be equal to or better than the real food in nu-

trition. The substitute food might, for example, have lower amounts of fat and calories, which are rarely viewed today as valuable attributes. FDA also believed that its new policy would encourage manufacturers to make substitute foods nutritionally equivalent to the foods they replace, in order to avoid having to use the "imitation" label. FDA's interpretation of imitiation has been upheld by the courts.

1. What kind of food should be called "imitation"?

2. What does the word "imitation" on the food label mean to you?

3. Should a substitute food always be called an "imitation" food, to indicate what it is not, in addition to being labeled with a name that identifies what it is; for example, should margarine be named "imitation butter" in addition to being labeled "margarine"? Why?

4. If a food purports to be a standardized food but does not conform to a standard of identity, should it be possible to sell the food, and, if so, under what name? Should the name of the food simply describe the difference from the standardized food? Should the food be called an "imitation"?

5. What information should be included in the name or on the label of substitute foods to inform consumers about the food? For example, should the name state the percentage of characterizing (important) ingredients?

In deciding whether a substitute food is nutritionally inferior and must be called "imitation", FDA looks at the nutrients for which there are U.S. Recommended Daily Allowances (RDA) and which are present in conventional foods at 2 percent or more of the U.S. RDA per serving of each nutrient. If there were sufficient scientific support, FDA could include other nutritional characteristics, such as the nature of the carbohydrate or fat, in the criteria for nutritional equivalence.

6. What criteria should be used to judge whether a food is nutritionally inferior? Should nutritional inferiority include the type of fat or carbohydrate (sugar, starch, fiber)? Should nutritional inferiority include trace minerals or other nutrients in addition to those for which RDA's have been established?

7. Should substitute foods that are nutritionally inferior be labeled to indicate that the food is nutritionally inferior? Do you think the term "imitation" is adequate to indicate that a substitute food is nutritionally inferior? What more information should be required?

8. Should prior approval by the government be required before a manufacturer can sell nutritionally equivalent substitute food under an accurate and descriptive name without "imitation" labeling? Why?

9. As discussed earlier, substitute foods that are nutritionally inferior must be labeled "imitation." Is the word "imitation" enough, or should the manufacturers be required to make substitute foods nutritionally equivalent? Should substitute foods have characteristics other than simply being identical in nutrient content? If so, what are the other characteristics?

Should even nutritionally equivalent substitute foods be labeled "imitation."

11. Do you have other suggestions about how substitute foods and imitation foods should be named and labeled?

Food Fortification

Food fortification refers to the addition of nutrients to foods. Examples are the addition of vitamin D to milk, iodine to table salt, and various vitamins and minerals to ready-to-eat breakfast cereals.

FDA does not have a general, overall regulation that requires or prohibits food fortification. FDA has established some standards of identity that prescribe the extent to which some standardized food must be fortified. Examples are enriched bread, which must contain levels of three vitamins and one mineral, and margarine, which must contain a specific amount of vitamin A. The standard for soda water, on the other hand, specifically prohibits the addition of nutrients on the grounds that they are unsuitable optional ingredients. FDA's policies on imitation labeling encourage the fortification of a food substitute to make it nutritionally equivalent to the food substituted for.

Those who favor food fortification believe that fortification is appropriate to counteract dietary insufficiencies and prevent the occurrence of dietary deficiencies, to restore nutrients unavoidably lost in the processing of foods, and to enhance the balance of nutrients to calories in foods. For many years, nutrients added to common foods have contributed substantial proportions of the total amount of many essential vitamins and minerals in our national food supply. The addition of niacin to bread (and other baked cereal-based staples and rice) in the enrichment program in the 1940's was responsible for the decline and virtual disapearance of pellagra, which was then endemic in the South. The nutrient fortification of milk for infant feeding is an example of the addition of nutrients to prevent the occurrence of a dietary deficiency in a very susceptible population.

Because no regulations or official policy guidelines exist, over-fortification as well as inapproprite fortification of foods may occur. Over fortification in both quantity and kind of nutrients can lead to unusual and excessive intakes of some nutrients, particularly if it encourages consumption of a food which, itself, may be considered to be nutritionally undesirable by being high in calories or containing large amounts of salt or simply being a "fun food." Indiscriminate fortification might also imply to some consumers that fortification of any kind makes a good food out of one with less desirable nutritional characteristics. As an example, some believe that adding vitamins and minerals to potato chips is inappropriate fortification.

The nature of our food supply is changing. We eat an even higher proportion of almost-ready-to-eat foods and meals than a generation ago; some foods are highly processed conventional foods and others are formulated from a wide variety of ingredients. This change is coming about primarily because of economic factors and new living styles. More consumers have the ability to buy according to their preferences, and the economics of agricultural production and the national food marketing system foster the change. More plant-derived than animal-derived foods may be eaten in the future. Some believe that limited fortification of these kinds of foods would be a desirable form of health maintenance or protection.

Please provide comments on when food fortification is appropriate and the extent to which the government should regulate food fortification. A typical label for a fortified food is shown by Label No. 6.

1. What should be the criteria for fortifying a food? Is the nature of a food or its place in the diet important? Is the occurrence of a real or suspected nutrient deficiency disease in any part of the U.S. population the only signal that some food should be fortified?

2. Are there types of foods that should not be fortified with nutrients?

3. Should the government regulate food fortification to prevent unnecessary fortification even if the fortification is safe? If fortification is unnecessary, should the food be prohibited? Explain your answers.

4. Should the extent of fortification be based on a standard such as the U.S. Recommeded Dietary Allowance?

5. If the government were to regulate fortification, should prior approval be required before a food can be fortified, or should a manufacturer be able to fortify with the government later bringing a court challenge when it believes the fortification to be illegal?

6. Is the standard of identity the kind of regulation that the government should use to continue regulating food fortification? (It is the tradi-

tional way for such foods as enriched bread and skim milk fortified with vitamins A and D, and a few others.) If not, what other kind of regulation should be used? Should changes in the nutrient profiles of current food standards be made (either by eliminating nutrients or adding nutrients or changing levels)?

7. Do you have other suggestions on food fortification and labeling?

TOTAL FOOD LABEL

Labels have a limited amount of space on which there is a large quantity of information. Some information is required by law: common or usual name of the food; name and address of packager, manufacturer or distributor; listing of ingredients for most foods; presence of artificial flavoring, coloring or preservative; and the amount of food contained in the package. Nutrition labeling is required by regulation if vitamins, minerals or protein are added to the food or if nutrition claims are made. The nutrition label may contain up to 28 items of information, such as the amount of vitamins, minerals, calories, protein, carbohydrate and fat present. In addition, the label may contain other information that the manufacturer wishes to put on it, such as brand name, price, vignettes or product photographs, serving directions, a code number related to the date of manufacture, recipe suggestions, offer to send information, premium offers, product guarantee, product coupons, advertising/benefit claims, ethnic symbols, universal product code, patent numbers, storage directions and name and address of container manufacturer. An example is shown by Label No. 7, Canned Sweet Corn.

In view of the quantity and complexity of package information, some people feel that the total communication effectiveness of package labels should be evaluated. Furthermore, additional information increases manufacturers' costs, and these costs may be added to the price of the food. Some manufacturers say they have to spend money to obtain the information, and, in some instances, have to adopt a fixed source of supply for some ingredients rather than use the lowest cost ingredients available at a particular time because varying the ingredients would require a change in the label. We need to determine what information should be conveyed by labels and how that information can be most effectively presented.

A number of proposals have been made to require additional information on labels including:

More specific identification of ingredients.
Amounts of ingredients.
Drained or fill weight.
Open date labeling.
Nutrition information.

In addition, proposals have been made to use symbolic markings or graphics to display information on nutrient content and certain food and color additives. Specific questions about ingredient, open date and nutrition labeling were discussed in other sections. Comments are invited on the following general questions concerning additional information needs and the total food label.

1. What type of product information should be conveyed using labels? How will this information benefit you?

2. Some people are concerned about "information overload," that is, having so much information on the label that it's confusing, overwhelming, or just hard to find what you want. Do you think that information overload is a problem with current labels? Would it be a problem if labels were required to have additional information?

3. Food packages are sometimes too small to accommodate a large amount of information on the label. Because of this, it may be necessary to limit label information. What current or proposed information on labels is most important? Least important? Put your answers to question No. 1 in order of priority. Does the importance of various types of label information change depending on the type of food products?

4. Do you have suggestions for improving the format or arrangement of food labels? Are there certain types of information that should be required to appear at different locations on the label?

5. Consumer representatives have suggested that symbolic markings on labels be used to call attention to the presence of a particular ingredient, such as an artificial flavor or color. This system might help people avoid certain ingredients to which they are abnormally sensitive. Do you favor this proposal? If so, give examples of specific ingredients that should be identified by symbols. How would people learn about what symbols mean?

6. Product labels are not the only method of conveying information to consumers. Other means that could be used in addition to labels include placards on display at point of sale, booklets for use in stores or at home, package inserts, etc. What role, if any, do you propose for other media?

7. What other suggestions do you have about the total food label? Give examples of labels that you think are understandable and complete. Which labels do you like best? Why?

LABEL 7

BRAND NAME

TRADE MARK

PICTURE
OF
PRODUCT

CREAM STYLE **GOLDEN SWEET CORN**

NET WT. 16 OZ. (1 Lb.)

INGREDIENTS CORN, WATER, SUGAR, SALT, STARCH

NUTRITION INFORMATION PER ½ CUP SERVING
SERVINGS PER CONTAINER APPROX. 4

CALORIES	210	CARBOHYDRATE	46 g
PROTEIN	5 g	FAT	1 g

PERCENTAGE OF U.S. RECOMMENDED DAILY ALLOWANCES (U.S. RDA) PER ½ CUP SERVING

PROTEIN	8
VITAMIN A	4
VITAMIN C	15
THIAMIN	2
RIBOFLAVIN	4
NIACIN	6
CALCIUM	*
IRON	4
PHOSPHORUS	8
MAGNESIUM	8

* CONTAINS LESS THAN 2% OF THE U.S. RDA OF THIS NUTRIENT

PACKED BY
E.Z. FOOD CO.
CITY, STATE, ZIP

CREAM STYLE

GOLDEN SWEET CORN

RECIPE

CORN FRITTERS—DRAIN AND ADD ONE EGG, ½ CUP FLOUR, ½ CUP MILK, ½ TEASPOON SALT, ¾ TEASPOON BAKING POWDER. DROP SPOONFUL ON HOT LIGHTLY GREASED GRIDDLE—LIKE GRIDDLE CAKES—AND BROWN BOTH SIDES QUICKLY. SERVE HOT EITHER PLAIN OR WITH SYRUP

SAFE AND SUITABLE INGREDIENTS

FDA has issued regulations, called standards of identity, that describe the kinds of ingredients that can or must be used in making many traditional foods. Under the law, FDA can issue a food standard when the standard "will promote honesty and fair dealing in the interest of consumers." Standards of identity have been issued for milk, cheeses, frozen desserts, bread, flour, macaroni, canned fruits, canned vegetables, and other foods. Foods for which no standards of identity have been issued, such as soups, cookies and pizza, are called nonstandardized foods. In nonstandardized foods manufacturers may use any ingredients desired, but must give the food an honest and nonmisleading name, and declare all ingredients in the ingredient statement.

In the past, standards of identity were like recipes, naming the specific ingredients that could be used. These standards often allowed several optional ingredients to be used. For example, canned peas may be seasoned with one or more of the following optional seasonings: green or red peppers, mint leaves, onions, garlic, horseradish, lemon juice, butter or margarine. Thus, even under the recipe-type standard, manufacturers often have had some flexibility in making the food, and the food could vary to some degree in taste and other features.

In recent years, manufacturers have been allowed additonal flexibility in choosing optional ingredients in standardized foods. Instead of listing by name in a recipe the specific ingredients that could be used, some standards pemit any safe and suitable ingredient to be used for certain purposes. For example, instead of specifying the particular preservatives that could be used by name (calcium propionate, sodium benzoate, etc.), a standard might allow any "safe and suitable preservative" to be used.

When safe and suitable ingredients are permitted to be used in a particular standard, FDA believes that the additional flexibility would not change the basic character of the food. The "safe and suitable" approach also allows a manufacturer or food processor to use different ingredients because of seasonal changes or to take advantage of new ingredients and economic conditions. Previously, such flexibility could be achieved by seeking to amend the applicable regulations. Amendment is a lengthy and elaborate procedure, even where the changes do not affect the character or nutritional value of the finished food.

Only safe ingredients can be used in any food, including a standardized food.

An ingredient is considered suitable only if it performs an appropriate function in the food in which it is used. The government would not consider an ingredient to be suitable if its use significantly changed or degraded the basic characteristcs of the food. Characteristics in this sense include nutritional value, taste, smell, appearance, stability, etc.

Standards vary in how much flexibility they provide in using safe and suitable ingredients. Some examples: the authorization to use safe and suitable preservatives in the cane syrup standard; safe and suitable nutritive sweeteners in a number of food standards, including the sweetened condensed milk standard; safe and suitable breading ingredients in the frozen raw breaded shrimp standard; any safe and suitable optional ingredient, except vitamins and certain other ingredients, in the soda water standard; and safe and suitable milk-derived ingredients to build solids in the creaming mixture for cottage cheese.

FDA revised the ice cream standard to permit any safe and suitable milk-derived ingredient to be used to meet the minimum dairy requirements. FDA received objections to this change because some people thought the change would lower the nutritional quality of the food or alter its character. FDA revoked this change because of a possible difference in nutritional quality, and it is no longer in effect.

1. Do you think food standards are a good way to regulate foods? What alternatives would you suggest? For which foods are standards of identity needed? Why?

2. Do you think standards of identity should provide flexibility in the use of optional ingredients? Do you agree that a food processor or manufacturer should have the ability to use new ingredients in a standardized food? If the change does not significantly alter what the food is? If the food is informatively labeled?

3. Does the "safe and suitable" policy allow too much flexibility in the way standardized foods are made? Which of the examples of the use of "safe and suitable" ingredients given above do you agree or disagree with and why? If you disagree with any of the uses, would you have a different view if more information about the ingredients were provided on the labels?

4. Do you think there would be as much need for standards of identity if the labels for all foods provided more information, such as information in the name about the percentage of important ingredients, percentage ingredient labeling, nutrition information, or other information? Which do you think is more important, to have more standards of identity, or to have more information on the labels of all foods? If more information is desirable, specify what information.

5. What factors should be considered in determining whether the use of a new option ingredient alters the basic character of a food? Do you think that the use of new ingredients that are similar to existing ingredients alters the basic character of a food? Does

your answer depend on the type of food involved?

6. Should food standards always specify the specific function (preservative, flavor, sweetener, etc.) for which safe and suitable ingredients may be used? For example, the soda water standard permits the use of any safe and suitable optional ingredients without specifying the functions for which the ingredients may be used? Should this be changed? How?

7. Do you have any other suggestions about food standards or about the use of safe and suitable ingredients?

References

FEDERAL FOOD, DRUG, AND COSMETIC ACT REGULATIONS—TITLE 21 CODE OF FEDERAL REGULATIONS

Sec.
101.3(e) Imitation labeling; nutritional inferiority.
101.4 Designation of ingredients; order of predominance; specific versus collective names.
101.6 Label designation of ingredients for standardized foods.
101.9 Nutrition labeling of food.
101.22 Labeling of spices, flavorings, colorings and chemical preservatives.
101.25 Labeling of foods in relation to fat and fatty acid and cholesterol.
102.5 Common or usual name for non-standardized foods; characterizing ingredient.
102.54 Name of seafood cocktail.
105 Labeling of foods for special dietary use.
130.3 General provisions for food standards; safe and suitable.
131-169 Specific food standards.

Examples

135 Frozen desserts.
136 Bakery products.
145 Canned fruits.
165 Nonalcoholic beverages.
166 Margarine.
169 Food dressings and flavorings.
131-169 Safe and suitable.

Examples

131.120 Sweetened condensed milk.
133.128 Cottage cheese.
161.175 Frozen raw breaded shrimp.
165.175 Soda water.
168.130 Cane syrup.

Statutory Provisions

Federal Food, Drug, and Cosmetic Act citations are listed in the first column. The United States Code citation is given in the second column.

Sec.	U.S.C.	
401	21 U.S.C. 341	Food standards.
403(a)	21 U.S.C. 343(a)	False and misleading claims.
403(c)	21 U.S.C. 343(c)	Imitation.
403(i)	21 U.S.C. 343(i)	Common or usual names; ingredient labeling; spices, flavorings and colorings.
403(j)	21 U.S.C. 343(j)	Special dietary foods.
403(k)	21 U.S.C. 343(k)	Labeling of artificial flavoring, artificial coloring or chemical preservatives; exceptions.
701(a)	21 U.S.C. 371(a)	Rulemaking authority.
701(e)	21 U.S.C. 371(e)	Procedures for food standards and certain other rules.

Judicial Decisions

62 Cases of Jam v. *United States*, 340 U.S. 593 (1951)—Imitation labeling.

Federation of Homemakers v. *Schmidt*, 539 F. 2d 740 (D.C. Cir. 1976)—FDA regulation on imitation labeling.

[FR Doc. 78-15965 Filed 6-8-78; 8:45 am]

federal register

FRIDAY, JUNE 9, 1978
PART V



OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

Reports

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

RESCISSIONS AND DEFERRALS

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report one proposal to rescind $48 million in budget authority previously provided by the Congress. In addition, I am reporting three new deferrals totalling $8.1 million and revisions to three previously transmitted deferrals increasing the amount deferred by $0.4 million.

The rescission proposal affects the military assistance program. The new deferrals and the revisions to existing deferrals involve programs in the Departments of Agriculture, Commerce, the Interior, and the Treasury.

The details of the rescission proposal and the deferrals are contained in the attached reports.

JIMMY CARTER,

THE WHITE HOUSE.
June 5, 1978.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	Item	Budget Authority
	Funds Appropriated to the President: International Security Assistance	
R78-6	Military assistance	48,000
Deferral No.		
	Department of Agriculture: Forest Service Permanent appropriations,	
D78-4A	Licensee programs	227
	Department of Commerce: Regional Action Planning Commissions	
D78-64	Regional development programs	1,618
	National Oceanic and Atmospheric Administration	
D78-65	Operations, research, and facilities	1,433
D78-10A	Fisherman's guaranty fund	950
	Department of the Interior: Heritage Conservation and Recreation Service	
D78-16A	Land and water conservation fund	30,000
	Department of the Treasury: Office of the Secretary Antirecession financial assistance	
D78-66	fund	5,000 1/
	Subtotal, deferrals	39,228
	Total, rescission proposal and deferrals	87,228

1/ Outlays only.

SUMMARY OF SPECIAL MESSAGES
FOR FY 1978
(in thousands of dollars)

	Rescissions	Deferrals
Ninth special message:		
New items	48,000	8,051
Changes to amounts previously transmitted	---	358
Effect of ninth special message	48,000	8,409
Previous special messages	87,923	4,958,404
Total amount proposed in special messages	135,932 (in 6 rescissions)	4,966,813 1/ (in 66 deferrals)

1/ This amount represents budget authority except for $14,573,000 consisting of four Department of the Treasury deferrals of outlays only (D78-28B, D78-50, D78-53, D78-66).

Rescission Proposal No: R78-6

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 95-148): $220,000,000
Bureau: International Security Assistance	Other budgetary resources: 95,700,000
Appropriation title & symbol: Military Assistance 1/ 2/ 117/81080 and 1181080	Total budgetary resources: 315,700,000
	Amount proposed for rescission: $48,000,000 3/
OMB identification code: 11-1080-0-1-152	Legal authority (in addition to sec. 1012): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other
Type of account or fund: [X] Annual; [X] Multiple-year September 30, 1978 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification:

Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish military assistance "...to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the U.S. and promote world peace..." The Foreign Assistance and Related Programs Appropriation Act, 1978 (Public Law 95-148, approved October 31, 1977) appropriated $220,000,000 for this purpose. Additional budgetary resources of $135,900,000 were expected to be available in FY 1978. Public Law 95-254 rescinded $40.2 million of these funds making an anticipated total of $95.7 million of additional funds available for this program.

In 1974, the Congress enacted Section 620(x) of the Foreign Assistance Act of 1961, which as amended, suspends all grant military assistance to Turkey "...until the President determines and certifies to the Congress that substantial progress toward agreement has been made regarding military forces in Cyprus..." As a result, $48 million which was authorized and appropriated for Turkey was deferred pending a Presidential certification regarding Cyprus or enactment of legislation by Congress removing the Presidential certification requirements. On April 6, 1978, the Secretary of State testified that the President was requesting the repeal of Section 620(x) and indicating that the U.S. and Turkey had agreed to renegotiate the Defense Cooperation Agreement which had been signed

1/ This account is the subject of a deferral, D78-47.
2/ This account was the subject of a similar rescission (R78-2) proposed earlier this fiscal year.
3/ This amount was included in a deferral (D78-47) transmitted to the Congress on December 15, 1977.

in March 1976. The lifting of Section 620(x) would make Turkey eligible to receive the $48 million which are no longer contemplated for use because of proposed new military assistance arrangements with that country.

Consequently, the $48 million will not be required in 1978 to carry out the full objectives and scope of the program now contemplated, and a rescission of this amount is proposed.

Estimated Effects:

There are no programmatic or budgetary effects that result from this rescission proposal since the planned FY 1978 program can be accomplished without the funds.

Outlay Effect:

There is no outlay impact of this rescission proposal.

TITLE I--FOREIGN ASSISTANCE ACT ACTIVITIES

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

Of the funds appropriated under this head in the Foreign Assistance and Related Programs Appropriations Act, 1978, $48,000,000 are rescinded.

Deferral No: D78-4A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (18 USC 711): $321,000
Bureau: Forest Service	Other budgetary resources: 231,738 *
Appropriation title & symbol: Licensee Programs, Forest Service 1/ 12X5214	Total budgetary resources: 552,738 *
	Amount to be deferred: Part of year: $ ____
	Entire year: 226,738 *
OMB identification code: 12-9922-0-2-302	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program: [ ] Yes [x] No	[ ] Other ____
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [x] No-year	Type of budget authority: [x] Appropriation; [ ] Contract authority; [ ] Other ____

Justification: *

Royalties collected under licenses for use of the characters "Smokey Bear" and "Woodsy Owl" are permanently appropriated and utilized for furthering the nationwide forest fire prevention campaign and promoting the wise use of the environment as provided by the Act of May 23, 1952 (18 USC 711), and for Woodsy Owl, (31 USC 488b-3-6). The total budgetary resources available in this program for fiscal year 1978 consist of $231,738 in actual receipts carried forward to fiscal year 1978 from fiscal year 1977 and $321,000 in receipts anticipated for fiscal year 1978. In keeping with routine financial management practices maintained over the years, $226,738 of the total budgetary resources available has been reserved. The reserve is justified on two grounds: (1) the reserve contributes to a consistent, stable program level from year-to-year which, in turn, promotes more efficient operations. The fiscal year 1978 program is being funded, in part, from reserved balances carried forward from last year. The 1979 program will be partially funded by the estimated receipts being deferred in fiscal year 1978; and, (2) reservation of funds is required to avoid the possibility of a violation of the Antideficiency Act (31 USC 665, (a), (b), (h)). A violation of the sections cited could occur if all the estimates of receipts now deferred were made available and obligated while estimated receipts were not fully realized.

This reserve action is taken under provisions of the Antideficiency Act that authorize the establishment of reserves for contingencies (31 USC 665(c) (2)).

1/ This account was the subject of a similar deferral during FY 1977.

*Revised from previous report.

D78-4A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No.D78-4 transmitted to the Congress on October 3, 1977, and printed as House Document No.95-235.

The amount deferred for the Forest Service's Licensee programs account is $226,738, an increase of $86,073 over the amount previously deferred. This change reflects an adjustment in unobligated balances brought forward on October 1, 1977, from an estimated to an actual basis.

D78-4A

Estimated Effects:

The funds made available are sufficient to carry out 1978 program objectives. If the deferred funds were made available for use and obligated in 1978, the 1979 program level would be below that conducted in the current year because some portion of 1978 receipts normally carried forward into the next fiscal year would not be available.

Release of deferred funds would necessitate development of a plan for an expanded 1978 program.

Outlay Effect:

No effect on outlays results from this deferral action.

Deferral No: D78-64

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L. 95-86) $64,600,000
Bureau Regional Action Planning Commissions	Other budgetary resources 8,727,282
Appropriation title & symbol: Regional Development Programs 12X2100	Total budgetary resources 73,327,282
	Amount to be deferred: Part of year $; Entire year 1,618,000
CMB identification code: 13-2100-0-1-452	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, provided $2,036,000 for the establishment of two new regional planning commissions. To date, only one new commission, Southwest Border Commission, has been established, leaving $1,018,000 of the funds uncommitted. There is also available from FY 1977 $600,000 out of $1,000,000 appropriated for an unspecified number of new commissions, bringing the total available for new commissions to $1,618,000. There are currently seven applications pending for the designation of economic development regions which, if approved, would result in the establishment of new commissions. While no final decision has been made on any of the applications, consistent with a wider review of the future of regional development programs, it is expected that because of the length of time required to organize and establish a commission no funding would be required during this fiscal year should any of the applications be approved. This deferral action will reserve the funds until a final decision on pending applications has been made, at which time the funds will be available either for additional new commissions or the existing new commission.

Estimated Effects: The effect of deferring $1,618,000 beyond 1978 will be to insure that funds will be available for initial start-up costs should any new commissions be established.

Outlay Effect: There is no outlay effect from this deferral.

D78-10A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D78-10 transmitted to the Congress on October 3, 1977, and printed as House Document No. 95-235.

This deferral for the Fishermen's guaranty fund in the National Oceanic and Atmospheric Administration of the Department of Commerce increases the previously reported deferral from $677,926 to $950,348. This increase of $272,422 results from an increase in estimated receipts for FY 1978 and recovery of prior year obligations.

Deferral No: D78-16A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority $630,000,000
Bureau Heritage Conservation and Recreation Service *	(16USC 460L; P.L. 95-74) Other budgetary resources 128,413,438*
Appropriation title & symbol: Land and Water Conservation Fund 1/ 14X5005	Total budgetary resources 758,413,438*
	Amount to be deferred: Part of year $; Entire year 30,000,000
CMB identification code: 14-5005-0-2-303	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☒ Annual (the deferred funds have a one year availability) ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☒ Contract authority ☐ Other

Justification: Under the law (16 USC 460L (10a)), $30 million of contract authority becomes available each fiscal year to the Land and Water Conservation Fund in addition to the $600 million appropriation enacted for FY 1978. The authority is made available by the Congress for use specifically as an anti-escalation measure in purchasing authorized Federal recreation land (P.L. 90-401; Senate Report 90-1071, to accompany S.1401). This authority was last used in 1969 and 1970. Thus, the contract authority has lapsed in fiscal years 1971-1977. The funds will be utilized in the future, as in the past, on a special case basis for emergency situations consistent with our understanding of congressional intent.

In accordance with provisions of the Antideficiency Act (31 USC 665), the $30 million has been deferred. This contract authority lapses at the end of each fiscal year in which it is not used. An equal amount becomes available at the beginning of the next fiscal year. The other funds in this account are the FY 1978 appropriation and prior-year balances of direct appropriations that have been made available for obligation.

Estimated Effects: This reserve for contingencies has no fiscal, economic or budgetary effect in the current year. The funds would be made available and obligated only in unforeseeable circumstances.

Outlay Effect: There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.
* Revised from previous report.

Deferral No: D78-10A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L.) $
Bureau National Oceanic and Atmospheric Administration	Other budgetary resources 1,143,048*
Appropriation title & symbol: Fishermen's Guaranty Fund 1/ 13X4318	Total budgetary resources 1,143,048*
	Amount to be deferred: Part of year $; Entire year 950,348*
CMB identification code: 13-4318-0-3-403	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☒ Other 82 Stat 729

Justification: *

The Fishermen's Protective Act of 1967, as amended, provides compensation to vessel owners and crews for financial losses resulting from the seizure of United States fishing vessels by foreign governments on the high seas or on the basis of foreign rights or claims to territorial waters not recognized by the United States. Capital for this fund beginning in FY 1978 is derived from fees paid by vessel owners at rates established by the Secretary of Commerce.

The current program will finance the administrative expenses of this fund and payment of all anticipated claims leaving $950,348 that can be deferred to cover any future seizures and subsequent claims. This reserve is in accordance with the Antideficiency Act. These funds could not be used even if made available for obligation.

Estimated Effects:

Deferral of these funds will have no effect on the Fishermen's Guaranty Fund program as currently planned for FY 1978.

Outlay Effect:

There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.
* Revised from previous report.

D78-16A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 930344

This report updates Deferral No.D78-16 transmitted to the Congress on October 3, 1977, and printed as House Document No.95-235.

This supplementary report contains the revisions necessary to change this deferral for the Land and water conservation fund in the Department of the Interior from the Bureau of Outdoor Recreation to the Heritage Conservation and Recreation Service.

Deferral No: D78-65

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce	New budget authority (P.L. 95-86) $607,506,000
Bureau National Oceanic and Atmospheric Administration	Other budgetary resources 81,220,320
Appropriation title & symbol	Total budgetary resources 688,726,320
Operations, Research, and Facilities 1/ 13x1450	Amount to be deferred: Part of year $ ——
	Entire year 1,433,000
OMB identification code: 13-1450-0-1-306	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program [ ] Yes [x] No	[ ] Other ——
Type of account or fund: [ ] Annual	Type of budget authority: [x] Appropriation
[ ] Multiple-year —— (expiration date)	[ ] Contract authority
[x] No-year	[ ] Other ——

Justification:

Funds were provided in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, for the continuation of the OCEANLAB project. Since delays have developed in completing the planning for the project and the award date for the construction contract has been rescheduled to December, 1979, at the earliest, funds totalling $1,433,000 are deferred for the entire year. This deferral will provide the additional time necessary to complete the review and selection of the most cost effective configuration of an OCEANLAB facility.

This deferral is taken in accordance with the Antideficiency Act (31 USC 665).

Estimated Effects:

This deferral will not affect the timing of construction of the OCEANLAB facility because actual construction is not planned to begin before the end of 1979.

Outlay Effect:

There is no outlay effect of this deferral, because the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1977.

Deferral No: D78-66

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury	New budget authority (P.L. 95-119) $1,400,000,000
Bureau: Office of the Secretary	Other budgetary resources 85,786,000
Appropriation title & symbol 1/ 2/ Antirecession Financial Assistance Fund 208/90108	Total budgetary resources 1,485,786,000
	Amount to be deferred: Part of year $ 5,000,000 3/
	Entire year ——
OMB identification code: 20-0108-0-1-852	Legal authority (in addition to sec. 1013): [x] Antideficiency Act
Grant program [x] Yes [ ] No	[x] Other P.L. 94-369, P.L. 95-30
Type of account or fund: [ ] Annual	Type of budget authority: [x] Appropriation
[x] Multiple-year September 30, 1979 (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other ——

Justification:

The Antirecession Financial Assistance Fund provides for federal economic assistance to State and local governments to help prevent those governments from taking budget related actions which are injurious to national economic health. These quarterly countercyclical payments are based on the relative size of the revenue sharing payments made to the State and local governments and the extent to which the unemployment rates present in those areas, in the appropriate quarter, exceed 4.5 percent. This deferral represents payments which have been and may be withheld from various governments for reasons of non-compliance with the requirements of the Public Works Employment Act of 1976 (P.L. 94-369).

Estimated Effects:

The release of these funds is contingent upon the various governments' compliance with the law by submitting required forms and reports.

Outlay Effect:

There is no outlay effect of this deferral. The funds will be made available this fiscal year.

1/ This account is the subject of another deferral, D78-26C.
2/ This account was the subject of similar deferrals (D78-50 and D78-58) earlier this fiscal year.
3/ Outlays only.

[FR Doc. 78-16093 Filed 6-7-78; 11:16 am]

federal register

FRIDAY, JUNE 9, 1978
PART VI



NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

DEPARTMENT OF THE INTERIOR

Office of the Secretary

DEPARTMENT OF AGRICULTURE

Office of the Secretary

■

FLOODPLAIN MANAGEMENT AND WETLANDS PROTECTION

Implementation of Executive Orders 11988 and 11990

PREVIOUSLY PUBLISHED DOCUMENTS

Listed below are other documents on implementation of Executive Orders 11988 and 11990 previously published in the FEDERAL REGISTER:

Agency	1978 Date of Issue	Vol. 43 FR, Page No.
Small Business Administration	May 24	22298
Army Department, Corps of Engineers	May 24	22306
General Services Administration, Public Buildings Service	May 24	22309
Treasury Department	May 24	22311
Agriculture Department, Soil Conservation Service	June 2	24223
Interior Department, Fish and Wildlife Service	June 2	24225
Tennessee Valley Authority	June 2	24228

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1216]

ENVIRONMENTAL QUALITY

Floodplain and Wetlands Management

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed Rules.

SUMMARY: NASA proposes to provide rules for its implementation of Executive Order 11988—Floodplain Management and Executive Order 11990—Protection of Wetlands. These rules are temporary and provide broad guidance to NASA field installations for the immediate uniform implementation of the Orders. Rules prescribing detailed implementing procedures will be published by November 1, 1978.

DATE: Comments or suggestions respecting the proposed rules should be submitted in writing not later than July 10, 1978.

ADDRESS: Director of Facilities, Code BX-9, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Norman Willis, Real Estate Management Branch, Facilities Division, National Aeronautics and Space Administration, Washington, D.C. 20546, 202-755-3290.

SUPPLEMENTARY INFORMATION: These proposed NASA rules adopt to a major degree the Floodplain Management Guidelines for Implementing Executive Order 11988, published by the U.S. Water Resources Council (Feb. 10, 1978, 43 FR 6030). These guidelines provide an explanation of key terms and floodplain management concepts, section-by-section analyses of the Order, and procedures in the form of a decisonmaking process for implementing the Order.

14 CFR Chapter V is amended by adding a new Part 1216 consisting at this time of Subpart 1216.2, reading as follows:

Subpart 1216.2—Floodplain and Wetlands Management

Sec.

1216.200 Scope.
1216.201 Applicability.
1216.202 Responsibility of NASA officials.
1216.203 Definition of key terms.
1216.204 General implementation requirements.
1216.205 Procedures for evaluating NASA actions impacting floodplains and wetlands.

AUTHORITY: Executive Order 11988 and Executive Order 11990 (42 U.S.C. 2473(c)(1)).

Subpart 1216.2—Floodplain and Wetlands Management

§ 1216.200 Scope.

This Subpart 1216.2 prescribes procedures to avoid the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and wetlands.

§ 1216.201 Applicability.

These procedures are applicable to Federal lands and facilities under the management control of NASA Headquarters and field installations regardless of location.

1216.202 Responsibility of NASA officials.

(a) Directors of field installations, and as appropriate, the Associate Administrator for Management Operations at NASA Headquarters, are responsible for:

(1) Avoiding the base floodplain or wetlands for new facilities development as well as for increased utilization unless it is the only practicable alternative.

(2) Providing for actions to adjust facilities design and land use to the base floodplain or wetlands, if such use cannot be avoided, including all practicable measures to minimize harm.

(3) Keeping the public informed of proposed actions in the base floodplain and wetlands, and encouraging public participation in floodplain decison-making.

(4) Issuing notices as prescribed in § 1216.205.

(b) The Director of facilities, NASA Headquarters, is responsible for overall, coordination of floodplain and wetlands management activities.

§ 1216.203 Definition of key terms.

(a) *Action.* Any NASA activity including acquisition, construction, modification, changes in utilization, and disposition of Federal lands and facilities.

(b) *Critical Action.* Any activity for which even a slight chance of flooding would be too great (associated with 500-year floodplains).

(c) *Floodplain.* The lowland and relatively flat areas adjoining the inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year (the 100-year floodplain).

(d) *Base Floodplain.* The 100-year floodplain (one percent chance floodplain). Also, the term 500-year floodplain should be substituted for base floodplain when considering critical actions.

(e) *Wetlands.* Those areas that are frequently inundated by surface or ground water and normally support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs and similar areas such as sloughs, potholes, river overflows, mud flats, wet meadows and natural ponds. Because all NASA wetlands lie in floodplains, and for purposes of simplifying the procedures of this subpart, floodplains will be understood as to encompass wetlands, except in cases where wetlands factors require special consideration.

§ 1216.204 General implementation requirements.

(a) Each NASA field installation shall prepare, if not already available, an installation base floodplain map based on the latest information and advice of the appropriate District Engineer, Corps of Engineers, or as appropriate, the Federal Insurance Administration (HUD). The map shall delineate the limits of both the 100-year and 500-year floodplains. A copy of the map, approved by the field installation director, will be provided to the Director of Facilities, NASA Headquarters by October 1, 1978. The map will conform to the definitions and requirements specified in the Floodplain Management Guidelines for Implementing Executive Order 11988 (43 FR 6030).

(b) For any proposed action, as defined in § 1216.203(a), using the approved floodplain map, the field installation director shall determine if the proposed action will or will not be located in the base floodplain, and proceed accordingly:

(1) If the action will be located in the base floodplain, or may directly impact or indirectly support floodplain development, field installations will adhere to the procedures prescribed in § 1216.205.

(2) If such action will not be located in the base floodplain, nor directly impact or indirectly support floodplain development, the action may be implemented without further review or coordination, provided all other applicable NASA requirements and policies have been met.

(c) Any request for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, on a case by case basis, if the action proposed will be located in a floodplain, whether the proposed action is in accordance with Executive Orders 11988 and 11990.

(d) Each field installation shall take floodplain management and wetlands protection into account when formu-

lating water and land use plans and shall restrict the use of land and water resources appropriate to the degree of flood hazard involved.

(e) Facilities to be located in floodplains will be constructed in accordance with the standards and criteria promulgated under the National Flood Insurance Program. Deviations are allowed only to the extent that these standards are inappropriate for NASA operations, research and test activities.

(f) If NASA property used or visited by the general public is located in an identified flood hazard area, the installation shall provide on structures, and other places where appropriate, conspicuous delineation of past and probable flood height in order to enhance public awareness of flood hazards.

(g) When property in floodplains is proposed for easement or disposal to non-Federal public or private parties, the field installation shall reference in the conveyance document those uses that are restricted under identified Federal, State, or local floodplain regulations.

§ 1216.205 Procedures for evaluating NASA actions impacting floodplains and wetlands.

(a) Before taking any action a determination shall be made whether the proposed action will occur in or affect a floodplain or wetlands, using the method prescribed in § 1216.204(b).

(b) These procedures apply only to evaluations of those proposed actions which are to be located in or will adversely impact floodplains. These evaluations shall be made at the earliest practicable stage of advance planning, such as during facilities master plan development and when preparing preliminary engineering reports.

(1) Early public notice is the first step in at least two public information and involvement activities. This will be accomplished using the appropriate state and areawide clearinghouses as identified in Office of Management and Budget Circular A-95, and by coordinating with these clearinghouses as prescribed in NASA Management Instruction 8800.9. The notice provided to the clearinghouses will not exceed three pages and will include:

(i) A location map of the proposed action.

(ii) The reasons why the action is proposed to be located in a floodplain.

(iii) A statement indicating whether the action conforms to applicable state and local floodplain protection standards.

(iv) A list of any identified alternatives to be considered.

(v) A statement explaining the timing of public notice review actions to provide opportunities for the public to provide meaningful input.

(2) The costs and impacts of alternatives must be fully determined to properly assess the practicality of avoiding the base floodplain, or of minimizing harm to the floodplain if alternatives directly or indirectly support floodplain developent or have other adverse impacts. As an integral function of any floodplain action finally taken, the natural and beneficial flood-plain values must be restored and preserved as much as possible.

(3) The proposed action and alternatives shall now be comparatively evaluated taking into account the identified impacts, the steps necessary to minimize these impacts and opportunities to restore and preserve floodplain and wetlands values. The comparison will emphasize floodplain values.

(i) If this evaluation indicates that the proposes action in the base floodplain is still feasible, consider limiting the action so that a non-floodplain site could be more feasible.

(ii) If the proposed action is outside the floodplain but has adverse impacts or supports floodplain development consider modifying or relocating the action to eliminate or reduce these effects or even taking no action.

(4) If, upon completing the comparative evaluation, the field installation director determines that the only practicable alternative is locating in the base floodplain, a statement of findings and public explanation must be provided to the appropriate A-95 clearing-houses, and will include as a minimuim:

(i) The reasons why the proposed action must be located in the floodplain.

(ii) A statement of all significant facts considered in making the determination including alternative sites and actions.

(iii) A statement indicating whether the actions conform to applicable State and local floodplain protection standards.

(5) After a reasonable period (15 to 30 days) to allow for public response, the proposed action may proceed through the normal NASA approval process, or if disposal is anticipated, the action can be implemented in accordance with Federal Property Management Regulations real property disposal procedures.

(c) For major NASA actions significantly affecting the quality of the human environment, the evaluations required above will be included in any statement prepared under Section 102(2)(C) of the National Environmental Policy Act.

ROBERT A. FROSCH,
Administrator.

[FR Doc. 78-15508 Filed 6-8-78; 8:45 am]

[4310-10]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

FLOODPLAIN MANAGEMENT AND WETLAND Protection Procedures Interim Guidelines

AGENCY: Department of the Interior.

ACTION: Interim guidelines.

SUMMARY: This notice provides the Department of the Interior's interim guidelines for complying with Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands).

DATE: Comments by July 10, 1978.

ADDRESS: Comments and inquiries should be directed to: Mr. Bruce Blanchard, Director, Office of Environmental Project Review, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

FOR FURTHER INFORMATION CONTACT:

Terence N. Martin, Office of Environmental Project Review, Department of the Interior, Washington, D.C. 20240, 202-343-4464.

SUPPLEMENTARY INFORMATION: These guidelines are now in use in draft form and apply to all Bureaus and Offices of the Department. The Bureaus and Offices will use these guidelines in the preparation of their own program specific guidelines for projects and activities that will affect floodplains and wetlands. These guidelines constitute the Department's policy and procedures for implementation of the Executive Orders. The final guidelines will be published in the FEDERAL REGISTER and made a part of the Departmental Manual.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

FLOODPLAIN MANAGEMENT AND WETLAND PROTECTION PROCEDURES

1.1 *Purpose.* This chapter sets forth the instructions to be followed in implementing Executive Order No. 11988, Floodplain Management, and Executive Order No. 11990, Protection of Wetlands, and hereinafter referred to as the Orders.

1.2 *Policy.* The Department of the Interior has a general mandate and broad responsibility for the management of the Nation's natural resources, including its streams, wetlands, and floodplains. It is the Department's policy to exercise leadership and take action to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of wetlands and floodplains. Further, it is the Department's policy to avoid the direct or indirect support of wetland or floodplain development whenever there is a practicable alternative.

1.3 *Authority.*

A. Executive Order 11988, which revoked and replaced Executive Order 11296, issued August 10, 1966, was issued in furtherance of the National Flood Insurance Act of 1968, as amended, the Flood Disaster Protection Act of 1973, and the National Environmental Policy Act of 1969 (NEPA). Section 2(d) requires issuance of new or amended agency regulations.

B. Executive Order 11990 was issued in furtherance of the National Environmental Policy Act of 1969, and section 6 requires issuance of new or amended procedures.

1.4 *References.* The following references are made an integral part of this chapter.

A. Executive Order 11988, Floodplain Management;

B. Executive Order 11990, Protection of Wetlands;

C. Unified National Program for Floodplain Management, Water Resources Council, 1976;

D. Water Resources Council Guidelines for Floodplain Management Guidelines, Water Resources Council, 1978 (43 FR 6030).

1.5 *Interrelationships.*

A. *General.* The Department of the Interior recognizes that the requirements of the Orders have basic interrelationships with and condition the implementation of existing Federal activities and guidance procedures. Therefore, to the extent possible, the Department will integrate floodplain management and wetland protection requirements into its programs and will utilize existing consultation, planning, and decision processes.

B. *Water Resources Council (WRC) Guidelines.* The WRC Guidelines for implementing the Floodplain Order are the basic guidance for interpretation of that Order and conduct of the floodplain management planning and decision process. Where it is deemed appropriate for the Department to diverge from the WRC Guidelines, this chapter will supersede those guidelines. In general the substantive requirements of the Floodplain Order as interpreted and explained in the Executive Summary of the Guidelines are adopted by this Department. This Department will adhere to the methods and standards set forth in the guidelines for determining risks and hazards of flood loss; minimization of impact on health, safety, and welfare; and evaluation of alternatives.

C. *Protection of Wetlands.* Executive Order 11990 requires Federal agencies to avoid destruction or modification of wetlands whenever there is a practicable alternative. Since almost all wetlands are found in the floodplain, the Department will, in general, conduct its activities regarding wetlands in accordance with this chapter.

D. *NEPA Compliance.* For actions located in floodplains and wetlands the requirements of the Orders supplement those of NEPA. Since most Federal actions in floodplains and wetlands will impact these resources, an environmental document (environmental statement or assessment) will probably be required to comply with NEPA. For ease and economy of documentation, the Orders' requirements will be included in each action's NEPA compliance documents.

1.6 *Responsibilities.*

A. *Assistant Secretary Policy, Budget, and Administration (AS/PBA).*

(1) Will have overall responsibility for ensuring that the Secretary's responsibilities under the Orders are carried out. In performing this duty the AS/PBA will prepare program directives and other necessary guidance as required.

(2) Will approve Bureau procedures for complying with the Orders.

(3) Will, in consultation with program Assistant Secretaries, prepare any required reports to the Water Resources Council and/or the Council on Environmental Quality.

(4) Will mediate conflicting interests between two or more Assistant Secretaries, and either resolve differences between the parties, or refer the conflicting views to the Secretary with a recommended course of action.

B. *Program Assistant Secretaries.*

(1) Will maintain general supervision of bureaus and offices under their jurisdiction in order to ensure compliance with the Orders and this chapter.

(2) Will review and concur with the floodplain and wetland procedures of their bureaus and offices prior to forwarding them to AS/PBA for approval.

(3) Will be responsible for resolving any conflicts among the bureaus and offices under their jurisdiction.

C. *Heads of Bureaus and Offices.*

(1) Will review their programs for applicability of the Orders and apply the Orders to any of the following activities. This list is not intended to be all inclusive:

(a) Planning and designing new Federal facilities,

(b) Modifying existing Federal facilities or in constructing new ones,

(c) Acquiring, managing, and disposing of Federal lands and facilities,

(d) Carrying out and influencing programs involving land use and water planning and development, including regulating and licensing activities, and

(e) Administering construction, improvement, and land acquisition programs supported or assisted by Federal grants, loans or other forms of financial assistance.

(2) Will establish regulations, directives or procedures for determining,

for the activities listed above and any others, the degree of risk present, and whether or not an alternative location or other course of action is practicable. If not, the procedures will indicate what steps to take to minimize harm to facilities, to the floodplain, and wetland resources.

(3) Will furnish with all requests for new authorizations or appropriations (for proposals to be located in floodplains and wetlands) a statement that the proposal is in accord with the Orders.

(4) Will be responsible for assuring compliance with the public information and other procedural requirements of the Orders.

(5) Will inform private parties and State and local governments participating in regulatory, financial, and land transactions of the hazards and impacts of locating structures in floodplains and wetlands.

1.7 *Procedures for Bureau Guidance.*

A. *General.* Bureaus are required to prepare or update written procedures for complying with the Orders. Initially, bureau procedures will be prepared or updated in consultation with AS/PBA and the appropriate program Assistant Secretary. Once approved by AS/PBA, periodic minor revisions can be made without extensive reconsultation. Any major amendments, however, will require concurrence of the appropriate program Assistant Secretary and approval by AS/PBA.

B. *Specific.*

(1) Bureau procedures will be prepared in accordance with this chapter, its references, and existing policies and will be published in the FEDERAL REGISTER.

(2) Bureau procedures will be circulated for review to the Council on Environmental Quality (CEQ), Water Resources Council (WRC), Federal Insurance Administration (FIA), Environmental Protection Agency (EPA), Fish and Wildlife Service (FWS), and Corps of Engineers (COE) as a minimum prior to publication in the FEDERAL REGISTER.

(3) Minor procedural amendments to bureau procedures do not require extensive consultation, however, substantive amendments will be circulated in accordance with (2) above.

(4) Bureau procedures will be prepared in the most logical format. The most important criterion is that the programs to which the Order applies must have a mechanism to bring about compliance. The following two formats are recommended:

(a) *Single Procedure Document.* This format would present the bureau's procedures in one document and explain its application to all affected programs.

(b) *Dispersed Procedures.* This format would present a summary of and reference the various separate procedures of the bureau's programs. Under this approach detailed procedures would be promulgated separately as additions or revisions to existing program guidance.

(5) Bureau procedures shall be completed and published as final documents within ninety (90) days of final promulgation of this chapter.

C. *Criteria for Review.* The following criteria will be used by AS/PBA and the program Assistant Secretaries during their review and approval of updated or amended floodplain and wetland directives and procedures:

(1) Incorporation of leadership with respect to natural and beneficial values of floodplains and wetlands;

(2) Incorporation of the principles of the "Unified National Program for Floodplain Management";

(3) Provision for a systematic review of existing rules, regulations, and procedures to incorporate protection and restoration of values;

(4) Review mechanism for applicable legislation to uncover new opportunities for protection and restoration within bureau programs;

(5) Provisions for technical consultation with WRC, CEQ, FIA, FWS, and COE, and other institutions with expertise in the natural and beneficial values of floodplains and wetlands;

(6) Assurance that planning programs and budget requests reflect consideration of natural and beneficial values of floodplains and wetlands; and

(7) Documentation of specific actions and examples of responses to the Floodplain Order for reporting purposes under that Order.

1.8 *Procedures for Bureau Activities.*

A. *General.* Procedures to be followed in applying the Floodplain Order to bureau activities are set forth in Part II of the WRC Guidelines. The Department has adopted this process and will deviate from it only when Departmental missions and programs will be more adequately served by a modified procedure. When the affected floodplain includes wetlands, the application of these procedures will also reflect the wetland considerations, and will demonstate how the wetlands will be protected.

B. *Procedures.* When a bureau proposes an action in wetlands or a floodplain the following procedural steps (summarized from the WRC Guidelines) will be addressed and integrated into the planning process.

(1) Determine whether or not the proposed action is in the floodplain or wetland; or whether it has the potential of affecting them;

(2) Initially notify the public of the intent to locate in the floodplain or wetland;

(3) Identify and evaluate the practicable alternatives;

(4) Determine impacts of the proposed alternative on the floodplain or wetland including any indirect support to other floodplain or wetland development;

(5) Determine ways to minimize the impacts and restore and preserve floodplain or wetland values;

(6) Reevaluate the proposed alternatives;

(7) Decision and public notice; and

(8) Implementation

C. *Documentation and Circulation.*

(1) Case-by-case documentation is required for all bureau actions covered by the Orders. Bureau project files will be kept current and reflect compliance with the decisionmaking process outlined in the WRC Guidelines.

(2) Circulation of information and data on casework is necessary to satisfy Sections 2(a) (2), (3), and (4) of the Floodplain Order. Section 2(a)(2) is a general notice of actions to be taken. Section 2(a)(3) assures compliance with A-95 reporting procedures. Section 2(a)(4) calls for early public review whether or not the action will require preparation of an environmental impact statement.

(3) Steps 2 and 7, Part II of the WRC Guidelines give thorough information for compliance with the public notice requirements of the Floodplain Order. Bureaus will utilize the FEDERAL REGISTER as the minimum mechanism for notice when the proposed action has national significance or impact. On actions of lesser geographical importance the FEDERAL REGISTER may be used, but in addition, bureaus will use other public information methods, such as news releases, newsletters, and public meetings, to inform the interested public.

(4) For interagency coordination the bureaus will utilize the following minimum list for circulation of notices, NEPA documents, and decision statements on proposals in floodplains and wetlands:

(a) Environmental Protection Agency (EPA)

(b) Federal Insurance Administration (FIA)

(c) Fish and Wildlife Service (FWS)

(d) U.S. Geological Survey (USGS)

(e) Bureau of Reclamation (BR)

(f) Corps of Engineers (COE)

(g) Soil Conservation Service (SCS)

1.9 *Deviations from WRC Guidelines.* The Department may infrequently have to deviate from the WRC Guidelines. This paragraph is reserved for these deviations and will be amended as the need arises.

The WRC Guidelines in Part II, Step 7 describe the post-decisional process for the statement of findings and explanation to the public in the event that reevaluation results in locating the project in the floodplain. Bureau guidance will incorporate the process into its pre-decisional activities includ-

ing the reevaluation of alternatives (Step 6). The bureau should work the key parts of the WRC Guidelines into their NEPA process so that floodplain and wetland considerations remain predecisional. Then a proposed statement of findings can be included in a final environmental statement or negative declaration.

1.10 *Intra-Departmental Conflict Resolution.* When two or more bureaus of the Department hold conflicting views on a particular project the following mechanism will be followed to achieve a satisfactory solution.

A. Meeting between field-level officials of the bureaus involved to resolve the matter or to clarify their differences.

B. If not resolved, meeting with the Regional Environmental Officer (REO) and regional officials of the involved bureaus to find a solution or refer to higher authority.

C. If referred to a higher level, each involved bureau and the REO will prepare and forward to headquarters a complete case report which provides background, analysis, acceptable alternative positions, conclusions, and recommendations. All supporting material (maps, associated reports, position papers, etc.) will accompany the case report. If the supporting materials are too voluminous, they should be summarized in the case report and made available to higher authority upon request.

D. If the opposing views are upheld within a program area under one Assistant Secretary, that Assistant Secretary will review the issue, document his/her findings, and decide the issue.

E. If the opposing views are held between two or more Assistant Secretaries, each Assistant Secretary will review the case report(s) under his/her jurisdiction and forward them with his/her findings and recommendations to the AS/PBA.

F. The AS/PBA will mediate any disputed issue forwarded, or refer it to the Secretary in those few instances where the Secretary's personal decision may be necessary.

[FR Doc. 78-15949 Filed 6-8-78; 8:45 am]

[3410-01]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

PROCEDURES FOR COMPLYING WITH EXECUTIVE ORDER 11988 ON FLOODPLAIN MANAGEMENT AND EXECUTIVE ORDER 11990 ON PROTECTION OF WETLANDS

Proposed Policy

In May of 1977 President Carter issued Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands.

Agencies of the Department of Agriculture are developing policies and procedures for complying with the provisions of the two Executive Orders.

The Department of Agriculture hereby gives notice of its proposed policy for compliance with the two Executive Orders.

SUBJECT: DEPARTMENT OF AGRICULTURE INTERIM PROCEDURES FOR COMPLYING WITH EXECUTIVE ORDER 11988 ON FLOODPLAIN MANAGEMENT AND EXECUTIVE ORDER 11990 ON PROTECTION OF WETLANDS

TO: AGENCY HEADS—SCS, SEA, REA, FS, FMHA, ASCS, AND ESCS

Two Executive Orders were issued in May of 1977 as important components of the President's message on the environment. These Executive Orders require all executive agencies to avoid disrupting wetlands or floodplains wherever there is a practicable alternative in delivering their programs and to minimize any environmental harm that might be caused by federal actions where there exists no practicable alternative. The Orders require executive agencies to establish procedures for compliance. Specifically, executive agencies are required to issue or amend existing program regulations and procedures within one year. Agencies are also required to incorporate the provisions of the Executive Orders into agency planning and decisionmaking procedures to ensure that consideration for wetlands and floodplains will be part of existing programs and will not cause unnecessary duplication or delay in government operations.

Directives

In complying with the provisions of Executive Order 11988 on Floodplain Management and Executive Order 11990 on Protection of Wetlands, the Department and its several agencies will take the following actions.

1. The Department will strengthen its advocacy for protection of wetlands from nonessential conversion to other uses and its advocacy of actions that reduce risk from flood loss, minimize the impacts of floods on human safety, health, and welfare, and which restore and preserve the natural and beneficial functions and values of floodplains. This will be accomplished by including wetlands and floodplains in the Department's Land Use Policy Memorandum (Secretary's Memorandum No. 1827 and Supplement No. 1 thereto) which is currently being revised.

2. Each agency having programs that may cause conversions of wetlands or which might enable others to convert wetlands to altenative uses, or that may cause construction or enable others to construct encroachments on floodplains or that may directly affect wetlands or floodplains are directed to review such programs and relevant administrative rules and regulations and to make such changes as are necessary to comply with Executive Orders 11988 and 11990.

3. Agencies having programs that may indirectly affect floodplains or wetlands by influencing decisions made by local and State government officials, planning and development organizations or agencies, or individual firms and landholders are directed to give increased attention to:

Generating and disseminating knowledge and providing technical assistance in the application of knowledge that may be useful to local and State officials, planning and development groups or agencies, or individual firms and landholders in understanding the natural and beneficial functions and values of wetlands and floodplains and in preserving and utilizing such lands.

Assisting State and local governing officials, planning and development groups or agencies, and individual firms and landholders to identify and study the feasibilities of, and to implement, alternatives to converting wetlands or encroaching on floodplains to meet local development needs.

4. All agencies of the Department are directed to identify, define, specify, and propose remedies for any legal, legislative, or other constraints that limit the agency's capacity to comply fully with the provisions of these Executive Orders.

5. The Department of Agriculture Land Use Committee, created under the provisions of Secretary's Memorandum No. 1807, Revised, will provide inter-agency leadership for bringing the Department into compliance with Executive Orders 11988 and 11990 and will be responsible for monitoring the Department's progress toward implementing these Executive Orders.

M. RUPERT CUTLER,
Assistant Secretary of Agriculture.

JUNE 7, 1978.

DEPARTMENT OF AGRICULTURE INDIVIDUAL AGENCY PROCEDURES FOR COMPLYING WITH EXECUTIVE ORDERS 11988 AND 11990

SOIL CONSERVATION SERVICE (SCS)

In response to Executive Orders 11988 and 11990, Floodplain Management and Protection of Wetlands, respectively, SCS will take the following actions:

(1) Publish SCS policy on the protection of wetlands in all programs administered by this agency. This final rule is to be published as Title 7; Chapter VI; Subchapter F, Support Activities; Part 656; Compliance with NEPA; Subpart B. Related Environmental Concerns; paragraph 650.26.

(2) Publish SCS policy on floodplain management in all programs administered by this agency. This proposed rule will be published for rulemaking as Title 7; Chapter VI; Subchapter F; Support Activities; Part 650, Compliance with NEPA; Subpart B, Related Environmental Concerns; paragraph 650.25.

(3) SCS policy on floodplain management (7 CFR 650.25) will be reviewed with the Council on Environmental Quality; Department of Housing and Urban Development's Federal Insurance Administration; and the staff of the Water Resources Council during the review period of the proposed rule, as directed in section 4(d) of the Executive Order.

(4) SCS is in the process of updating and revising existing handbooks, internal guides, and other procedural documents to address the two Executive Orders in greater detail than the general policy statements published as SCS rules.

RURAL ELECTRIFICATION ADMINISTRATION (REA)

The REA is drafting and will issue rules under REA Bulletin 20-21:320-21 for loan, loan guarantee, or other financial assistance applicants that will ensure that Department's electric and telephone cooperatives programs are in compliance with the provisions of Executive Orders 11988 and 11990. These rules will require applicants to avoid locating projects in floodplains or on wetlands where a practicable alternative exists or to utilize all practicable measures to ameliorate any minor adverse effects on floodplains or wetlands where no practicable alternative exists. The rules will also require that facilities constructed in floodplains will be designed and constructed so that occurrences of floods of less magnitude than that which may be expected every 500 years will not result in the loss of service to vital emergency and lifesaving facilities. Definitions of, and procedures for, identifying

floodplains and wetlands and for minimizing adverse impacts from projects that must be located thereon will be included.

ECONOMICS STATISTICS AND COOPERATIVES SERVICE (ESCS)

The Economics, Statistics and Cooperatives Service performs work under four major activities: (1) Economic analysis and research, (2) crop and livestock estimates, (3) statistical research and service, and (4) research and technical assistance for agricultural cooperatives. The Service also conducts many projects at the request of other agencies.

Activities covered by the two Executive Orders are: "* * * (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; (3) conducting Federal activities and programs affecting land use, including, but not limited to, water and related land resources planning, regulating, and licensing activities."

Given the nature of our program we do believe that we are within the scope of actions covered by the Executive Orders. Our Natural Resource Economics Division has water and related land resources planning assistance (as opposed to planning) functions and in that context would be covered by the procedures of the Soil Conservation Service. We have in the past conducted, at SCS request, research on floodplain management. We will continue to serve on the Wetlands Task Force and to provide assistance in floodplain management and wetland protection as requested by the agencies of the Department.

FARMERS HOME ADMINISTRATION (FMHA)

FmHA has taken the following actions in response to Executive Orders 11988 and 11990, Floodplain Management and Protection of Wetlands.

Proposed procedures have been written which will affect all FmHA programs or operations. The numbers of these procedures will be 1901-M, Floodplain Management and 1940-Q, Protection of Wetlands. Both of the drafts of these procedures have been circulated for prior review by all of the Assistant Administrators and are now in the Office of the General Counsel for legal review. Immediately after we have obtained this legal review, we propose to have both of these two instructions reviewed with the Council on Environmental Quality, the Department of Housing and Rural Development, Federal Insurance Administration, and the Water Resource Council during the review period of the proposed rule.

The proposed changes will allow FmHA to take responsible action to comply with the provisions of Executive Orders 11988 and 11990.

FOREST SERVICE (FS)

The principal mechanisms for Forest Service implementation of E.O. 11990 and E.O. 11988 are: (1) Rules developed in response to the National Forest Management Act, (2) specific reference to E.O. requirements in revised NEPA procedures, and (3) specific direction in appropriate sections of the Forest Service Manual.

Two new subchapters will be added to the 2500 Section of the Forest Service Manual to cover Floodplain Management Evaluations and Protection of Wetlands. These subchapters will include specific objectives, policies and responsibilities, and general direction for complying with E.O. requirements. In addition to these new subchapters, revisions in specific direction are being made to: FSM 5430.3, 5431.7, and 5435.23 covering exchanges involving lands in floodplains; FSM 2703 covering land uses authorized by the Forest Service; FSM 7503.6 adding wetlands protection requirements to existing flood-loss reduction requirements in 7503.5 covering water storage and transmission facilities, federal buildings, structures, roads and other facilities; FSM 7706.1 covering transportation facilities; FSM 7114.1, 7114.11, and 7114.12 covering federal buildings, structures, roads and other facilities, and surplus real property, existing facilities and new facilities; FSM 7114.13 covering sources of flood hazard information; FSM 1930.3 covering funding requests for proposed projects located in floodplain or wetlands; and, FSM 2513, covering the documentation and conspicuous delineation of past and probable flood heights.

SCIENCE AND EDUCATION ADMINISTRATION (SEA)

SEA programs may have indirect impacts on efforts to protect wetlands and on the management of floodplains. SEA's program responsibilities include the generation and dissemination of knowledge that may be useful in understanding the natural and beneficial functions and values of wetlands and floodplains and in protecting and utilizing such lands. SEA also provides assistance to State and local governing officials, planning and development organizations and agencies, and individual firms and landholders to identify needs and study the feasibilities of alternatives to converting wetlands or encroaching on floodplains in meeting those individual and community needs.

SEA does not make decisions that are binding on local and State governing officials, planning and development agencies or organizations, or individual firms or landholders. SEA generates and provides the latest and best scientific and technical knowledge available in advising and assisting these people in their making of reasonable and rational decisions.

SEA will increase its emphasis, consistent with budget and staffing limitations, on its Natural Resources and Rural Development Research and Extension programs. These are the programs through which Federal Research, Cooperative Research, and Extension can influence the decisions made by landholders, planners, developers, and State and local governing officials in such manner as to avoid erosion and thereby minimize sedimentation in wetlands and preserve floodplains and to utilize these lands to meet local needs in ways that do not destroy the natural and beneficial functions and values.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (ASCS)

It will be the policy of ASCS to carry out the intent of its various commodity, conservation and related land use programs in harmony with the intent of the executives orders (E.O.'s) and any subsequent guidelines for implementing them.

Specifically, with respect to wetlands, the agency has and will continue to emphasize:

(1) Establishing measures to improve water quality, offering practices to conserve soil, water resources, and establishing wildlife habitat, etc.;

(2) Prohibiting cost-sharing assistance for draining wetlands types 3 through 20;

(3) Encouraging ASCS county committees (COC's) to preserve wetlands types 1 and 2 where they are adjacent to the above type wetlands; and

(4) The prohibition of cost-sharing for the construction of levees and dikes and will continue to prohibit the rehabilitation of the same under the emergency conservation measures program (ECM).

Further, with regards to the floodplain management in floodplains areas, the agency will issue regulations which will provide:

(1) That on-going farming not be considered development for purposes of the proposed regulations:

(2) When commodity program assistance is requested which would bring new land into agricultural production other than by normal farming, ASCS will inform the landuser of the hazards and discourage development unless the COC determines that the development will not be detrimental to the environmental quality;

(3) When conservation assistance is requested, ASCS may approve the assistance unless the COC determines that the development is environmentally detrimental. In which case, it may be disapproved or forwarded to the responsible technical agency for possible design modification; and

(4) That assistance requested on storage structures not be approved, unless the COC determines that no practical alternative exists and the landuser will effect practical modifications to minimize potential harm in the event of flood. Further, the agency will:

(1) Provide that all environmental assessments (EA's) and environmental impact statements (EIS's) prepared on agency programs will consider impact(s) of those programs on floodplains.

(2) Provide for public review of any assistance provided in floodplains where the COC determines that the proposed action is detrimental to the environment.

(3) Comply with the E.O.'s, through regulations and handbooks of its administered programs.

[FR Doc. 78-16167 Filed 6-8-78; 8:45 am]

FRIDAY, JUNE 9, 1978
PART VII



federal register

DEPARTMENT OF STATE

DEPARTMENT OF ENERGY

DEPARTMENT OF COMMERCE

■

Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978

[4710-09]

DEPARTMENT OF STATE

DEPARTMENT OF ENERGY

DEPARTMENT OF COMMERCE

PROCEDURES ESTABLISHED PURSUANT TO THE NUCLEAR NON-PROLIFERATION ACT OF 1978

The following procedures have been established pursuant to the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95-242). These procedures establish requirements solely applicable to agencies of the United States rather than individuals. Accordingly, they are not rules within the meaning of the Administrative Procedure Act. Any comments on these procedures should be directed to the appropriate responsible official listed in section 2 of Part A.

Dated: June 1, 1978.

LOUIS V. NOSENZO,
Deputy Assistant Secretary of State for Nuclear Energy and Energy Technology Affairs, Bureau of Oceans and International Environmental and Scientific Affairs.

DONALD M. KERR,
Acting Assistant Secretary of Energy for Defense Programs.

NELSON F. SIEVERING, Jr.,
Deputy Assistant Secretary of Energy for International Programs.

STANLEY J. MARCUSS,
Deputy Assistant Secretary of Commerce for Trade Regulation.

PART A. GENERAL PROVISIONS

SECTION 1. AUTHORITY AND SCOPE

a. The procedures herein are established by:

(i) The Department of Energy pursuant to sections 54, 57b(2), 64, 111b(1), and 131 of the Atomic Energy Act of 1954, as amended, hereinafter referred to as "the Atomic Energy Act."

(ii) The Department of State pursuant to section 126a(1) of the Atomic Energy Act;

(iii) The Department of Commerce pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, hereinafter referred to as "the Act", and the general policies and procedures set forth in the Export Administration Act of 1969, as amended.

b. These procedures apply to agency activities with respect to the matters dealt with by sections 54, 57b(2), 64, 109, 111b(1), 126a and 131 of the Atomic Energy Act and sections 309(c) and 402(a) of the Act, and the Export Administration Act of 1969, as amended.

c. These procedures have been agreed to by the Secretaries of State, Energy, Defense, and Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, or by the authorized designee acting on behalf of any of the foregoing.

SECTION 2. RESPONSIBLE OFFICIALS

a. Department of State, Washington, D.C. 20520—The Deputy Assistant Secretary for Nuclear Energy and Energy Technology Affairs in the Bureau of Oceans and International Environmental and Scientific Affairs.

b. Department of Energy, Washington, D.C. 20545—For sections 57b and 126a of the Atomic Energy Act and section 309(c) of the Act, the Assistant Secretary for Defense Programs. For sections 54, 64, 111b and 131, of the Atomic Energy Act and section 402 of the Act, the Deputy Assistant Secretary for International Programs.

c. Department of Defense, Washington, D.C. 20301—The Assistant Secretary for International Security Affairs.

d. Department of Commerce, Washington, D.C. 20230—The Deputy Assistant Secretary for Trade Regulation.

e. Arms Control and Disarmament Agency, Washington, D.C. 20451—The Assistant Director for Non-Proliferation.

f. The Nuclear Regulatory Commission, Washington, D.C. 20555—The Director, Office of International Programs.

SECTION 3. OFFICES FOR COORDINATION

a. Department of State—The Office of Export and Import Control in the Nuclear Energy and Energy Technology Division of the Bureau of Oceans and International Environmental and Scientific Affairs.

b. Department of Energy—For Parts B, D, and F of these procedures, the Office of the Assistant Secretary for Defense Programs. For Parts C and E of these procedures, the Office of Nuclear Affairs, in the Office of International Affairs.

c. Department of Defense—The Office of the Assistant Secretary for International Security Affairs.

d. Department of Commerce—The Office of Export Administration in the Bureau of Trade Regulations.

e. Arms Control and Disarmament Agency—The Nuclear Exports Divison of the Bureau of Non-Proliferation.

f. Nuclear Regulatory Commission—The Office of International Programs, Assistant Director for Export/Import and International Safeguards.

SECTION 4. COORDINATION AND MONITORING

The Interagency Subgroup on Nuclear Export Coordination of the National Security Council (NSC) Ad Hoc Group on Non-Proliferation shall, without prejudice to its authority to carry out other functions, monitor and facilitate the interagency processing of the activities referred to in section 1 (b), and serve as a forum for exchanging and coordinating views. This Subgroup shall meet as frequently as necessary, normally twice a month. This Subgroup shall establish such procedures as are necessary for its effective functioning.

SECTION 5. RESOLUTION OF INTERAGENCY DISAGREEMENTS

a. If, after appropriate consultation, any agency listed in section 2 does not agree with a proposed Executive branch action pursuant to section 54, 57b(2), 64, 109, 111b(1), 126a or 131 of the Atomic Energy Act, or section 309(c) or 402(a) of the Act, the steps set forth below may be followed, normally in the order indicated, to facilitate resolution of the disagreement:

(i) Consideration in the Subgroup on Nuclear Export Coordination of the NSC Ad Hoc Group on Non-Proliferation;

(ii) Consideration in the NSC Ad Hoc Group on Non-Proliferation;

(iii) Any other procedures of the NSC that are appropriate;

(iv) Referral to the President.

b. Recourse to the steps in this section shall be taken expeditiously. An agency wishing to have recourse to any of the steps above shall so indicate immediately to the offices specified in section 3. The agency concerned shall normally give five days notice before initiating action under steps (ii), (iii), or (iv).

c. Nothing in this section shall derogate from the statutory authority of any agency. If any agency considers that all statutory requirements have been met and wishes to proceed with an action within its jurisdiction covered by these procedures notwithstanding the existence of an interagency disagreement, it shall normally provide all other concerned agencies with five working days notice.

SECTION 6. CONTENT OF JUDGMENTS, FINDINGS AND CONSIDERATIONS UNDER THESE PROCEDURES

Judgments, findings and determinations under these procedures shall address the matters required by the applicable section of the Atomic Energy Act.

SECTION 7. TECHNICAL PROVISIONS

a. These procedures take effect on June 7, 1978.

b. The processing of any action subject to these procedures shall not be delayed because of the entry into effect of these procedures. Clearances obtained or matters resolved under

procedures previously in effect need not be reconsidered for the sole purpose of complying with new procedural requirements.

c. Nothing in these procedures shall affect the ability of any agency to protect classified or proprietary information pursuant to applicable law.

d. These procedures may be amended at any time subject to agreement among the agencies specified in section 1(c).

PART B. EXECUTIVE BRANCH JUDGMENTS UNDER SECTION 126a(1) OF THE ATOMIC ENERGY ACT

SECTION 1. PROCEDURES

a. Except as provided in section 2 of this Part, the Nuclear Regulatory Commission shall promptly transmit any properly completed export license application or proposed general license or proposed exemption from licensing requirements to the offices listed in paragraphs a through e of the section 3 of Part A.

b. As promptly as possible, but in no event later than 15 days after the receipt of each license application or proposed general license or proposed exemption, the offices listed in paragraphs b through e of section 3 of Part A shall review the submission and shall advise the Office of Export and Import Control:

(i) Whether that agency believes that any additional information is required in connection with preparation of the Executive branch judgment. In the event that such information is required, the Office of Export and Import Control shall seek to obtain and provide the information as promptly as possible. If additional information required is essential to further Executive branch processing, the Office of Export and Import Control may return the application, proposed general license, or proposed exemption to the Nuclear Regulatory Commission, in which event the schedule of actions and deadlines set out herein shall recommence upon receipt by the Office of a substantively complete application, proposed general license or proposed exemption from the Nuclear Regulatory Commission;

(ii) Whether that agency believes a license application appears to raise issues which will require more extensive consideration than is normally necessary in Executive branch processing or similar license applications. If such issues appear to be present, the Office of Export and Import Control will normally schedule consideration of these issues at the earliest possible meeting of the Subgroup on Nuclear Export Coordination and shall as promptly as possible initiate appropriate steps, including those required to obtain any necessary policy decisions and to initiate necessary diplomatic consultations;

(iii) Of their preliminary views on the license application, if so requested by the Office of Export and Import Control.

If the Department of Energy is the license applicant pursuant to section 111 a of the Atomic Energy Act, the designee of the Secretary of Energy shall not be required to advise the Office of Export and Import Control of its views pursuant to this paragraph.

c. No later than five working days after receipt of its copy of a license application from the Nuclear Regulatory Commission, the Department of Energy shall, as appropriate, if the proposed export appears to be consistent with the applicable agreement for cooperation, request confirmation in writing from the nation or group of nations under the agreement for cooperation of which the export is to take place, that among other things:

(i) The export will be subject to the terms and conditions of the agreement for cooperation;

(ii) The consignee is authorized to receive the export; and

(iii) Physical security measures will be maintained with respect to the export that as a minumum provide protection comparable to that set forth in document INFCIRC 225/Rev. 1 of the International Atomic Energy Agency, entitled, "The Physical Protection of Nuclear Material."

Such confirmation shall, as appropriate, be requested with respect to any intermediate destinations and the ultimate destination of the export that are identified in the license application. If any such confirmation is not received within fifty-five days after receipt of the license application by the Office of Export and Import Control in the Department of State, the Office may return the application to the Nuclear Regulatory Commission, in which event the schedule of actions and deadlines set out herein shall recommence after receipt of the confirmation and return to the Office by the Nuclear Regulatory Commission of the application.

d. Upon receipt of its copy of the license application from the Nuclear Regulatory Commission, the Department of Energy shall determine whether the proposed export involves material with respect to which the United States has agreed to consult with or obtain the approval of any other nation or group of nations prior to its export. If such an undertaking exists, the Department of Energy shall promptly inform the Department of State so that appropriate action may be taken.

e. If the license application is for an export of high enriched uranium, plutonium or uranium-233, equal to or exceeding formula quantities (as defined in 10 CFR 73.30) the Department of energy shall prepare an analysis of the technical and economic justification for the use of such material, including whether the quantities requested are necessary for the efficient and continuous operation of the facility involved. This analysis shall be provided to the Office of Export and Import Control of the Department of State within 30 days after receipt by the Department of Energy of its copy of the export license application or as soon thereafter as possible. This analysis shall be provided to concerned agencies and shall be taken into consideration in preparing the Executive branch judgment.

f. As promptly as possible following receipt of the information in paragraph b, and no later than 30 days after its receipt of the license application, proposed general license or proposed exemption, the Office of Export and Import Control shall prepare and transmit to the offices listed in paragraphs b through e of section 3 of Part A, a proposed Executive branch judgment on the application, proposed general license or proposed exemption. If additional information has been requested from the Nuclear Regulatory Commission pursuant to paragraph b(i), or if actions are pending pursuant to paragraphs b(ii), d or e, this shall be noted in transmitting the proposed Executive branch judgment.

g. No later than ten days after the date of receipt of a proposed Executive branch judgment, the designees of the Secretaries of Energy, Defense, and Commerce, and the Director of the Arms Control and Disarmament Agency, shall each provide the Office of Export and Import Control their written views on the proposed Executive branch judgment transmitted pursuant to paragraph f. When providing its views, the Department of Energy shall transmit a copy of any confirmation obtained pursuant to paragraph c and, if applicable, any approval or confirmation obtained pursuant to paragraph d. If a required confirmation or approval is not available at that time, the Department of Energy shall so advise the Office of Export and Import Control. Upon receipt of the required confirmation, the Department of Energy shall forward it as expeditiously as possible to the Office of Export and Import Control and shall simultaneously advise the Nuclear Regulatory Commission so that the procedures in paragraph c above may be undertaken. In the event of any disagreement which cannot be resolved between agencies, the provisions in section 5 of Part A shall be followed.

h. An Executive branch judgment shall normally address the matters required by section 126a(1) of the Atomic Energy Act with respect to both any intermediate destinations and the final destination of the export

that are identified in the license application. Notice of any transfer of the export between intermediate destinations and the final destination shall be received by the Department of Energy. Any action required under Part E for approval of transfers between intermediate and final destinations specified in an application for an export license and which are expected to occur within one year of issuance of a license, normally will be accomplished without unnecessary duplication of procedural steps during the review of the license application, and publication in the FEDERAL REGISTER will take place as soon as possible after issuance of the export license. If any such transfer does not occur within one year following issuance of the export license, an appropriate request for approval of the transfer shall be submitted to the Department of Energy for action pursuant to the procedures in Part E.

i. A single Executive branch judgment may address more than a single application to the extent that they involve exports of similar equipment or material to the same country, in the same general time frame, of similar significance for nuclear explosive purposes and under reasonably similar circumstances.

j. An Executive branch judgment may address the matters required by section 126a(1) of the Atomic Energy Act by expressing the view that there is no material changed circumstance associated with a new license application from those existing at the time of issuance of a previous license for an export to the same country, where the previous license was subject to full analysis by the Executive branch.

k. An Executive branch judgment may address any or all of the matters required by section 126a(1) of the Atomic Energy Act by reference to an analysis previously submitted to the Nuclear Regulatory Commission if the offices in paragraphs a through e of section 3 of Part A agree that there is no material changed circumstance with respect to such matter or matters.

l. No later than 60 days after receipt of a license application, proposed general license or proposed exemption by the Department of State, the Department shall transmit to the Nuclear Regulatory Commission the Executive branch judgment on the license application, proposed general license or proposed exemption.

m. Any time period in this section may be extended by the Deputy Assistant Secretary of State for Nuclear Energy and Energy Technology: *Provided*, That the time period in paragraph l may be extended only if in the view of the Secretary of State or his designee it is in the national interest to allow additional time, in which case he shall notify the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, and the offices listed in paragraphs b through f of section 3 of Part A, of such extension.

n. The Office of Export and Import Control shall maintain for at least five years records of steps set forth above and the dates on which they were taken.

SECTION 2. SMALL QUANTITIES

a. Pursuant to the authority in section 126a(1) of the Atomic Energy Act to determine that any export in a category would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the following categories of exports shall not normally require case-by-case Executive branch review under these procedures:

(1) Byproduct material: all types and quantities, except tritium in quantities exceeding 1000 curies;

(2) Source material: all exports for nonnuclear end uses, and exports of less than 250 kilograms for nuclear end uses;

(3) Low-enriched uranium: one kilogram or less of contained uranium-235;

(4) High-enriched uranium: 0.040 effective kilograms or less;

(5) Plutonium and uranium-233: 10 grams or less;

(6) Deuterium: 225 kilograms of heavy water or its equivalent deuterium content in any other form;

(7) Nuclear grade graphite: 100 kilograms or less;

(8) Nuclear equipment: all exports with a value under $100,000.

b. This section shall not apply to exports with end uses related to isotope separation, chemical reprocessing, heavy water production, plutonium handling, such types of advanced technology reactors as may be agreed by the agencies listed in section 1(c) of Part A, and initial exports of nuclear equipment to foreign nuclear facilities, and is subject to other limitations which the Executive branch or the Nuclear Regulatory Commission may, from time to time, deem necessary.

PART C. FOREIGN DISTRIBUTIONS UNDER SECTIONS 54 AND 64 OF THE ATOMIC ENERGY ACT

SECTION 1. PROCEDURES

a. The Office of Nuclear Affairs of the Department of Energy shall prepare an analysis of proposed distributions of source and special nuclear material. The Office shall transmit the analysis to the offices listed in paragraphs a, c, e, and f of section 3 of Part A. The analysis shall include a statement of the purpose of the distribution, reference to the applicable agreements for cooperation, other pertinent information and a recommended course of action. The analysis will specify whether the proposed distribution appears to raise issues which will require more extensive consideration than is normally necessary for Executive branch processing of similar requests and the Office of Nuclear Affairs will initiate as promptly as possible appropriate steps, including those required in order to obtain any necessary policy decisions and to initiate any necessary diplomatic consultations.

b. No later than 30 days following receipt of the analysis, the designees of the Secretaries of State and Defense, the Director of the Arms Control and Disarmament Agency and the Nuclear Regulatory Commission shall provide the Office of Nuclear Affairs with their written concurrence or such other views, comments or proposed courses of action which they consider appropriate. In the event of any disagreement which cannot be resolved between agencies, the provisions in section 5 of Part A shall be followed.

c. No later than 30 days following the expiration of the time limit set forth in paragraph b, the Office of Nuclear Affairs shall determine whether to authorize the proposed distribution: *Provided*, That if recourse is made to the procedures in section 5 of Part A, this period shall be 60 days.

d. Any time period in this section may be extended by the Deputy Assistant Secretary for International Programs or his designee.

SECTION 2. SMALL QUANTITIES

The Department of Energy, without further interagency concurrence or consultation may, to the extent authorized in sections 54, 64 and 82 of the Atomic Energy Act, distribute such quantities of material as are specified in paragraph a of section 2 of Part B, subject to the qualifications and conditions contained in paragraph b of that section.

PART D. DIRECT OR INDIRECT PRODUCTION OF SPECIAL NUCLEAR MATERIAL ABROAD PURSUANT TO SECTION 57b OF THE ATOMIC ENERGY ACT

SECTION 1. PROCEDURES

a. Following receipt by the Department of Energy of any application (which is properly submitted under 10 CFR, Part 810) for specific authorization, the Office of Defense Programs of the Department of Energy shall submit the application, an analysis, and a preliminary staff recommendation to the offices listed in paragraphs a and c through f of section 3 of Part A.

b. The analysis provided for in paragraph a, shall specify whether the application appears to raise issues which will require more extensive consider-

ations than is normally necessary for Executive branch processing of similar applications, and the Assistant Secretary for Defense Programs or his designee shall as promptly as possible initiate appropriate steps, including those required in order to obtain any necessary policy decisions and to initiate any necessary diplomatic consultations.

c. No later than 30 days after receipt of the analysis, the designees of the Secretary of State, Defense, Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall provide the Office of Defense Programs of the Department of Energy with written concurrence in the preliminary staff recommendation or such other views, comments or proposed courses of action which they consider appropriate, including such analysis as may be needed to support their position. In the event of any disagreement which cannot be resolved among the agencies, the provisions in section 5 of Part A shall be followed.

d. No later than 30 days following receipt of the concurrence or views as provided in paragraph c, the Office of Defense Programs shall provide the Secretary of Energy with a recommendation, including the views of the agencies listed in paragraph c, concerning his action on the application: *Provided*, That if recourse is made to the procedures in section 5 of Part A, this period shall be 60 days.

e. Any time period in this section may be extended by the Assistant Secretary for Defense Programs or his designees.

SECTION 2. CONTINUED EFFECT OF CURRENT PROCEDURES

a. Pursuant to section 603 of the Act, 10 CFR Part 810, Unclassified Activities in Foreign Atomic Energy Programs, continues in effect.

b. Any amendment of Part 810 which involves a determination by the Secretary of Energy regarding generally authorized activities shall be made in accordance with these procedures.

PART E. SUBSEQUENT ARRANGEMENTS UNDER SECTION 131 OF THE ATOMIC ENERGY ACT

SECTION 1. PROCEDURES

a. Any request from a nation or group of nations for a subsequent arrangement as defined in section 131a(2) of the Atomic Energy Act or request for an enrichment authorization under section 402(a) of the Act shall, if it appears consistent with applicable law and agreements and if submitted in appropriate form be transmitted promptly by the Office of Nuclear Affairs of the Department of Energy to the offices listed in paragraphs a, and c through f of section 3 of Part A, together with any supporting documents. All references to the term "subsequent arrangement" shall, for purposes of this Part, be deemed to include an enrichment authorization.

b. As promptly as possible, but no later than 15 days after receipt of each request, the offices listed in paragraphs a, and c through f of section 3 of Part A shall review the request and shall advise the Office of Nuclear Affairs.

(i) Whether that agency believes that any additional information is required. In the event that such information is required, the Office of Nuclear Affairs shall seek to obtain and provide the information as promptly as possible;

(ii) Whether that agency believes the request appears to raise issues which will require more extensive consideration than is normally necessary in Executive branch processing of similar requests. If such issues appear to be present, the Office of Nuclear Affairs will normally schedule consideration of these issues at the earliest possible meeting of the Subgroup on Nuclear Export Coordination and shall as promptly as possible initiate appropriate steps, including those required to obtain any necessary policy decisions and to begin any necessary diplomatic consultations; and

(iii) Of their preliminary view, if so requested by the Office of Nuclear Affairs.

c. The Office of Nuclear Affairs shall (if a request for a subsequent arrangement is involved, no later than 15 days after the expiration of the time limit set forth in paragraph b)[1] prepare and transmit to the offices listed in paragraphs a, and c through f of section 3 of Part A, a proposed subsequent arrangement, proposed denial, or other proposed course of action. In this transmittal, the Office of Nuclear Affairs shall advise the Office of Export and Import Control of the Department of State if, in the view of the Department of Energy, a proposed subsequent arrangement is likely to involve negotiations of a policy nature pertaining to arrangements for the storage or disposition of irradiated fuel elements or approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. This transmittal shall also specify any steps deemed appropriate to expedite a proposed subsequent arrangement in the instances specified in section 131a(3) of the Atomic Energy Act. The transmittal may also include an analysis where necessary in the judgment of the Office of Nuclear Affairs to facilitate review. Upon the written request of any recipient office within 10 days after receipt of a propsed subsequent arrangement, the Office of Nuclear Affairs shall prepare and transmit an analysis of the proposed subsequent arrangement.

d. No later than 20 days after receipt of the proposed subsequent arrangement pursuant to paragraph c, the designees of the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission shall provide the Office of Nuclear Affairs with their written concurrences or such other views, comments, or proposed courses of action which they consider appropriate. The response of the designee of the Director of the Arms Control and Disarmament Agency shall also include a declaration of any intention of the Director to prepare a Nuclear Proliferation Assessment Statement pursuant to section 131a of the Atomic Energy Act. Any such statement shall be prepared within 60 days of the receipt by the Director or his designee of a copy of the proposed subsequent arrangement. In the event of any disagreement which cannot be resolved between agencies, the provisions of section 5 of Part A shall be followed.

e. No later than 20 days after the expiration of the time limit set forth in paragraph d, but, if the Director of the Arms Control and Disarmament Agency has declared his intention to prepare a Nuclear Proliferation Assessment Statement, only after receipt of the Statement or the expiration of the time authorized in section 131c of the Atomic Energy Act for the preparation of the Statement, whichever occurs first, the Secretary of Energy, or his designee, after making the determination required by section 131a(1) of the Atomic Energy Act and pursuant to any required judgment, under section 131b(2) of the Atomic Energy Act, shall decide whether to enter into the proposed subsequent arrangement: *Provided*, That if recourse is made to the provisions in section 5 of Part A, this period shall be 60 days.

f. After discharging the Department of Energy's responsibilities under these procedures, the Secretary of Energy or his designee shall cause to be published in the FEDERAL REGISTER notice of any proposed subsequent arrangement together with his written determination that the arrangement will not be inimical to the common defense and security. He shall also report to Congress with respect to any proposed subsequent arrangement of the types specified in section 131b(1) of the Atomic Energy Act. No subse-

[1] A subsequent arrangement may be initiated in certain circumstances by the Department of Energy, in which case paragraphs a and b are not applicable.

quent arrangement shall take effect until the applicable time period or periods in section 131 of the Atomic Energy Act have elapsed.

g. Except for the time limits for the preparation of a Nuclear Proliferation Assessment Statement, any time period in this section may be extended by the Deputy Assistant Secretary for International Programs or his designee.

SECTION 2. SUBSEQUENT ARRANGEMENTS INVOLVING RETRANSFERS WITHIN THE SCOPE OF AN EXPORT LICENSE AND CERTAIN SMALL QUANTITIES

a. The Department of Energy, without further interagency concurrence or consultation and after complying with any other requirements, may approve any request for a subsequent arrangement which is limited to a retransfer where an applicable export license has authorized transfer of the material involved for the same purpose and to the same destination for which the retransfer is to be made, unless:

(i) The Department of Energy determines there has been a material change in circumstances since the issuance of the export license;

(ii) The retransfer does not occur in the same general time period as contemplated by the export license;

(iii) The retransfer is for any of the purposes set forth in paragraph b of section 2 of Part B;

(iv) The retransfer involves more than one effective kilogram of uranium-235 in uranium enriched to greater than 20 percent in the isotope 235; or

(v) The retransfer involves more than 500 grams of plutonium or uranium-233.

b. The Department of Energy, without obtaining interagency concurrence or consultation and after complying with any other requirements, may enter into a proposed subsequent arrangement which is limited to such quantities of material as are specified in paragraph a of section 2 of Part B, subject to the qualifications and conditions contained in paragraph b of that section.

c. The Department of Energy shall provide the offices set forth in paragraphs a, and c through f of section 3 of Part A with a copy of the executed approval form for any subsequent arrangements approved pursuant to this section.

PART F. EXPORT ITEMS UNDER SECTION 309c OF THE ACT

SECTION 1. PROCEDURES

a. A list of commodities licensed by the Department of Commerce which, if used for purposes other than those for which the export is intended, could be of significance for nuclear explosive purposes, shall be developed and maintained by the Departments of Commerce and Energy in consultation with the Departments of State and Defense, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission.

b. Export license applications for commodities on the list referred to in paragraph 1, as well as any other applications which may involve possible nuclear uses, shall be reviewed by the Department of Commerce in consultation with the Department of Energy. When either the Department of Commerce or the Department of Energy believes that—because of the proposed destination of the export, its timing, or other relevant considerations—a particular application should be reviewed by other agencies, or denied, such application shall be referred to the Subgroup on Nuclear Export Coordination. The Subgroup shall promptly consider any such application and provide its advice and recommendations to the Department of Commerce. Disgreements shall be handled in accordance with the provisions of section 5 of Part A.

c. Reviewing agencies shall promptly, but not later than 30 days after receipt from the Department of Commerce of an application, provide their views thereon to the Department of Commerce. If, however, it is not possible to provide views within this time or if, at any point during review, it appears that final action on an application will not be completed within 60 days of receipt by the Department of Commerce, any agency which requires additional time shall inform the Department of Commerce at the earliest possible time of the issues involved and provide an estimate of the time needed to complete its review. The Department of Commerce will then advise the exporter in writing as required by section 4(g)(1) of the Export Administration Act of 1969, as amended.

d. If the Subgroup recommends denial of an application, the reasons therefor shall be articulated for the record. If the Department of Commerce agrees with the recommendation, that Department, in accordance with section 4(g)(2)(A) of the Export Administration Act of 1969, as amended, shall notify the applicant in writing of the negative considerations raised with respect to such license application. Before final action is taken on the application, the applicant shall be afforded the opportunity to respond within 15 days to such negative considerations. If appropriate, the applicant's response will be made available to the Subgroup for further review and advice. In the event of any disagreement which cannot be resolved between agencies, the provisions in section 5 of Part A shall be followed.

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