

Federal Register

FRIDAY, OCTOBER 6, 1978



highlights

HOW TO USE THE FEDERAL REGISTER

ALBANY, NEW YORK, AND DALLAS, FORT WORTH, AND AUSTIN, TEXAS, WORKSHOPS

See Inside cover for details.

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HOW TO USE THE FEDERAL REGISTER WORKSHOPS

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

WHAT: Free public workshops (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

ALBANY, NEW YORK

WHEN: October 27 and 28, 1978, at 1:00 p.m.

WHERE: Meeting Room No. 1, Cultural Education Center, Empire State Plaza, Albany, New York.

RESERVATIONS: Call Elizabeth Closson, 518-474-5943.

DALLAS, TEXAS

WHEN: October 30, 1978, at 9:30 a.m.

WHERE: Conference Room 7A23, Earle Cabell Federal Building, 1100 Commerce St., Dallas, Texas.

RESERVATIONS: Call Federal Information Center, 214-749-2131.

FORT WORTH, TEXAS

WHEN: October 31, 1978, at 9:30 a.m.

WHERE: Auditorium, 7th Floor, Lone Star Gas Co., 908 Monroe St., Fort Worth, Texas.

RESERVATIONS: Call Federal Information Center, 817-334-3624.

AUSTIN, TEXAS

WHEN: November 2, 1978, at 2 p.m.

WHERE: Room 100B, Regan Office Building, 15th & Congress Sts., Austin, Texas.

RESERVATIONS: Call Peggy Lockhart or Bob Walton, 512-475-6725.

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[Last Listing: October 5, 1978]

H.R. 8149 Pub. L. 95-410
 Customs Procedural Reform and Simplification Act of 1978. (Oct. 3, 1978; 92 Stat. 888). Price: \$.90.

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rules and regulations

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

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

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This authority excepts from the competitive service under schedule A all staff positions of the President's Commission On World Hunger with the provision that no one may serve under this authority after June 30, 1980, or earlier as directed by the President. This exception is granted because it is impracticable to examine for these positions.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3199 (1) is added as set out below:

§ 213.3199 Temporary Boards and Commissions.

(1) *President's Commission On World Hunger.* (1) All positions on the staff of the President's Commission On World Hunger. No one may serve under this authority after June 30, 1980, or earlier as directed by the President.

(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. 78-27938 Filed 10-5-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The title of the Schedule A Merchant Marine Academy position of Assistant Dean is changed to Associate Dean to conform with the title of similar positions at other service academies.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3114(h)(11) is amended as follows:

§ 213.3114 Department of Commerce.

(h) *Maritime Academy.* * * *

(11) U.S. Merchant Marine Academy positions of; Superintendent, Special Assistant to the Superintendent; Assistant Superintendent for Planning and Administration; Dean; Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; and three Academy Training Representatives.

(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. 78-27939 Filed 10-5-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Assistant Director of Literature Programs is excepted under schedule A until September 30, 1980, in the National Endowment for the Arts because examination is impracticable for this position.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3182(a)(8) is added as follows:

§ 213.3182 National Foundation on the Arts and the Humanities.

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

(8) Until September 30, 1980, one position of Assistant Director of Literature Programs.

(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. 78-28210 Filed 10-5-78; 8:45 am]

[6325-01]

PART 539—CONVERSIONS BETWEEN PAY SYSTEMS

Transfer of Functions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following amendments correct editorial oversights to (1) correct the title of Subpart B of Part 539, which covers conversions to the General Schedule, and (2) clarify that, for an employee who has been converted with his or her position to the General Schedule from another pay system, a subsequent movement to another agency as a result of a transfer of function does not terminate or defeat the employee's eligibility for saved pay. This protection in transfers of function is substantially the same as § 531.510 of Part 531, dealing with salary retention after reductions in grade. This clarification of the original protective intent of the conversion regulations is particularly necessary and appropriate at this time because a number of employees whose pay is currently based on Part 539 are now being transferred to another agency as

a result of Government reorganization.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry A. Wolf, 202-632-6553, Bureau of Policies and Standards, Technical Services Staff, Room 3351, 1900 E Street NW., Washington, D.C. 20415.

Accordingly, the headnote of 5 CFR Part 539, Subpart B, is amended and § 539.204 is added as set out below:

Subpart B—Conversions to General Schedule

§ 539.204 Transfer of functions.

The movement of an employee with his or her function in a transfer of function between agencies does not terminate or defeat the employee's eligibility for saved pay in determining whether he or she remained "in the same agency," as required by § 539.203(d).

(5 U.S.C. 5334, 5338)

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

[FR Doc. 78-28209 Filed 10-5-78; 8:45 am]

[6325-01]

PART 550—PAY ADMINISTRATION (GENERAL)

Adjustment of Work Schedules for Religious Observances

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following amendments are issued pursuant to title IV of Pub. L. 95-390, enacted September 29, 1978. Under the law and these regulations an employee of an executive agency may elect to work compensatory overtime for the purpose of taking compensatory time off because of religious obligations when an employee's personal religious beliefs require that the employee abstain from work during certain periods. A Federal agency may, under appropriate regulations, disapprove such modifications in work schedules if they interfere with the efficient accomplishment of an agency's mission. The Civil Service Commission is responsible for promulgating regulations for implementation of title IV of the act for executive agencies no later than 30 days after enactment. Because of this requirement, and in view of the President's wish that regulations be issued im-

mediately due to the imminence of religious holidays, we could not delay the effective date to allow for proposed rulemaking and public procedures. Development of subsequent regulations will be made subject to public participation. The following regulations are interim regulations.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Dwight W. Brown, Room 3353, Office of Leave and Pay Administration Policy, Bureau of Policies and Standards, 1900 E Street NW., Washington, D.C. 20415, area code 202-632-5604.

Accordingly, 5 CFR part 550 is amended by adding subpart J as follows:

Subpart J—Adjustment of Work Schedules for Religious Observances

Sec.

550.1001 Coverage.

550.1002 Compensatory time off for religious observances.

AUTHORITY: 5 U.S.C. 5550a.

Subpart J—Adjustment of Work Schedules for Religious Observances

§ 550.1001 Coverage.

This subpart applies to each employee in or under an executive agency as defined by section 105 of title 5, United States Code.

§ 550.1002 Compensatory time off for religious observances.

(a) These interim regulations are issued pursuant to title IV of Pub. L. 95-390, enacted September 29, 1978. Under the law and these regulations, an employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to engage in overtime work for time lost for meeting those religious requirements.

(b) To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of an agency's mission, the agency shall in each instance afford the employee the opportunity to work compensatory overtime and shall in each instance grant compensatory time off to an employee requesting such time off for religious observances when the employee's personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek.

(c) For the purpose stated in paragraph (b) of this section, the employee may work such compensatory over-

time before or after the grant of compensatory time off. A grant of advanced compensatory time off should be repaid by the appropriate amount of compensatory overtime work within a reasonable amount of time. Compensatory overtime shall be credited to an employee on an hour for hour basis or authorized fractions thereof. Appropriate records will be kept of compensatory overtime earned and used.

(d) The premium pay provisions for overtime work in subpart A of part 550 of title 5, Code of Federal Regulations, and section 7 of the Fair Labor Standards Act of 1938, as amended, do not apply to compensatory overtime work performed by an employee for this purpose.

(e) These interim regulations shall remain in effect until superseded by further regulations on this subject by the Civil Service Commission.

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

[FR Doc. 78-28218 Filed 10-5-78; 8:45 am]

[3410-02]

Title 7—Agriculture

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

[Lemon Reg. 167]

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 October 8-14, 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: October 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION:

FINDINGS

Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulat-

ing 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 October 3, 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 good for sizes 140's and larger but easier on sizes 200's and 235's.

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.

§ 910.467 Lemon Regulation 167.

ORDER

(a) The quantity of lemons grown in California and Arizona which may be handled during the period October 8, 1978, through October 14, 1978, is established at 215,000 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: October 5, 1978.

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

[FR Doc. 78-28580 Filed 10-5-78; 11:43 am]

[3410-02]

PART 1201—TYPE 62 SHADE-GROWN CIGAR-LEAF TOBACCO GROWN IN DESIGNATED PRODUCTION AREA OF FLORIDA AND GEORGIA

Order Terminating Remaining Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Order terminating remaining provisions.

SUMMARY: This order terminates the remaining provisions of marketing agreement and order No. 195, as amended (7 CFR part 1201) regulating the handling of type 62 shade-grown cigar-leaf tobacco grown in the designated production area of Florida and Georgia. This order is being terminated at the request of the Control Committee because the order no longer is needed to effectuate the policy of the Act.

DATE: Effective October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Leonard J. Ford, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-2097.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Proposed rule: Issued September 16, 1977, published September 22, 1977 (42 FR 47848); order terminating marketing agreement and order, as amended: Issued January 12, 1978, published January 18, 1978 (43 FR 2627).

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) hereinafter referred to as the "Act," and of the marketing agreement and order regulating the handling of type 62 shade-grown cigar-leaf tobacco grown in the designated production area of Georgia and Florida (7 CFR part 1201), it is hereby found and determined that:

(a) The following remaining provisions of the marketing agreement and order no longer tend to effectuate the declared policy of the Act: Section 1201.71 (Proceedings after termination).

On January 12, 1978, the Secretary terminated all the provisions of this marketing agreement and order except § 1201.71 relating to proceedings after termination of the order. In that termination order the Secretary ordered that the Control Committee continue as trustees for the purpose of liquidat-

ing the affairs of the Committee. Since that time, the Committee has wound up its affairs by distributing the assessment funds collected prior to June 3, 1973 (the date on which the program became inactive) pro rata, to growers qualified to receive such funds, after deducting audit and postage expenses. Accordingly, the function of liquidating the affairs of the Control Committee has been completed.

(b) Thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in view of the fact that all affected parties have been fully notified of the termination proceeding and have had sufficient opportunity to make their views known to the Secretary.

It is therefore ordered, That the remaining provisions of order No. 195, § 1201.71, regulating the handling of type 62 shade-grown cigar-leaf tobacco grown in the designated production area of Georgia and Florida (7 CFR part 1201), are hereby terminated and part 1201 is vacated effective on or after October 31, 1978, subject, however, to the following condition: That such termination of the remaining provisions of that order shall not affect or waive any right, obligation, duty, or liability under the agreement or order which shall have arisen under these provisions or the regulations issued thereunder prior to February 1, 1978, or release or extinguish any violation of these provisions of the regulations issued thereunder, or affect or impair any right or remedies of the Secretary, or any other person, with respect to any such violation that has arisen or occurred or which may arise or occur prior to the time that the termination of such remaining provisions become effective.

Dated: October 3, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for
Marketing Services.

[FR Doc. 78-28301 Filed 10-5-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

**SUBCHAPTER I—LOAN AND GRANT
PROGRAMS (INDIVIDUAL)**

[FmHA Instruction 1904-C]

**PART 1904—LOAN AND GRANT
PROGRAMS (INDIVIDUAL)**

Subpart C—Farmer Program Loans

EMERGENCY LOANS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration is amending its emergency loan regulation to comply with recent legislation. This action sets forth the interest rate for actual loss loans made as a result of disasters occurring before October 1, 1978, and approved on or after October 1, 1978; and the interest rate for actual loss loans made as a result of disasters occurring on or after October 1, 1978. The amount of actual loss loan which may be made to any one applicant based on disasters occurring before October 1, 1978, and approved after that date has been limited to a maximum of \$250,000.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

James E. Lee, Director, Emergency Loan Division, phone 202-447-6257.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends § 1904.170 (b)(2) and (e) (1) and (2) of Subpart C to Part 1904, Chapter XVIII, Title 7, in the Code of Federal Regulations. The interest rates published in this amendment are authorized by the Agricultural Credit Act of 1978, and are consistent to the extent possible with the interest rates which the Small Business Administration will charge farmers and ranchers for similar loans based on disasters occurring before October 1, 1978. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the change is being made to comply with recent legislation. Therefore, notice of proposed rulemaking and public procedure thereon are unnecessary. Accordingly, §§1904.170 (e)(1)(i) (A) and (B) are deleted and §§1904.170 (b)(2) and (e) (1) and (2) are amended and read as follows:

§ 1904.170 Emergency loans.

(b) Eligibility. (1) * * *

(2) No ceiling has been established on the size of operations that may be financed with EM loans nor on the dollar limit of loans which may be made, except that actual loss loans based on disasters occurring on or after July 1, 1978, and before October 1, 1978, and approved on or after October 1, 1978, will be limited to the lesser of the applicant's actual dollar loss or \$250,000 for any one authorized or declared disaster. Therefore, subject to the eligibility requirements and other provisions of this regulation, EM loans may be made to finance larger than family farm operations.

(e) Rates and terms.—(1) Interest rates. * * *

(i) For disasters occurring on or after July 1, 1976, and prior to October 1, 1978, all actual loss loans (physical and production) approved on or after October 1, 1978, will be at 3 percent interest with a maximum loss loan limitation of \$250,000.

(ii) For disasters occurring on or after October 1, 1978, all actual loss loans (physical and production) will be at 5 percent interest and limited to the amount of the actual dollar loss.

(2) Establishing repayment terms and delay of principal payments. EM actual loss loans made at the 1, 3, and 5 percent interest rates and approved before October 1, 1978, will be scheduled for repayment so that principal and interest on that portion of the loan bearing the lowest interest rate will mature before principal payments are scheduled for portions of the loan bearing higher rates. However, interest must be collected on the portion of the principal deferred during the period principal payments are not scheduled. The portion of the loan bearing the lower interest rate should be repaid as soon as possible, consistent with the applicant's repayment ability. This deferral of principal does not apply to EM loans for other than actual losses.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: October 4, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.
[FR Doc. 78-28379 Filed 10-5-78; 8:45 am]

[3410-07]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-B]

**PART 1980—GUARANTEED LOAN
PROGRAMS**

Subpart B—Farmer Program Loans

EMERGENCY LOANS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration is amending its guaranteed emergency loan regulation to comply with recent legislation. This action sets forth the interest rate for loss loans guaranteed as a result of disasters occurring before October 1, 1978, and approved on or after October 1, 1978; and the interest rate for loss loans guaranteed as a result of disasters occurring on or after October 1, 1978. The amount of actual loss loans which may be made to any one applicant based on disasters occurring before October 1, 1978, and approved after that date has been limited to a maximum of \$250,000.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

James E. Lee, Director, Emergency Loan Division, phone 202-447-6257.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends § 1980.170 paragraphs (a), (d)(1)(i) and (e) (1) and (2) of Subpart B to Part 1980, Chapter XVIII, Title 7, in the Code of Federal Regulations. The interest rates published in this amendment are authorized by the Agricultural Credit Act of 1978, and are consistent to the extent possible with the interest rates which the Small Business Administration will charge farmers and ranchers for similar loans based on disasters occurring before October 1, 1978. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. with respect to such rules. This amendment, however, is not published for proposed rulemaking since the change is being made to comply with recent legislation. Therefore, notice of proposed rulemaking and public procedure thereon are unnecessary. Accordingly, paragraphs

1980.170(e)(1)(i), (ii) (A) and (B) are deleted and §§ 1980.170 paragraphs (a), (d)(1)(i), and (ii), (e)(1) (i) and (e)(2) are amended to read as follows:

§ 1980.170 Emergency loans.

(a) *Objectives.* The basic objectives of EM loan guarantees are to provide financial assistance to eligible farmers, ranchers, and aquaculture operators to cover losses, make major adjustments, pay operating expenses, and provide for other essential needs so that they may maintain sound farming, livestock, or aquaculture operations. No ceiling has been established on the size of operations that may be financed with EM loans or on the dollar limit of loans which may be made, except that actual loss loans based on disasters occurring on or after July 1, 1976, and before October 1, 1978, and approved on or after October 1, 1978, will be limited to the lesser of the applicant's actual dollar loss or \$250,000 for any one authorized or declared disaster.

(d) *Loan purposes.* * * *

(1) *Actual loss loans.* (i) Loans may be made to applicants for the amount of actual losses and expenses for disaster damaged or destroyed farm property, or production enterprises or both resulting from the disaster, except that actual loss loans based on disasters occurring on or after July 1, 1976, and before October 1, 1978, and approved on or after October 1, 1978, will be limited to the lesser of the applicant's actual dollar loss or \$250,000 for any one authorized or declared disaster. Actual loss loan funds may be used for any authorized EM loan purpose. Applications for actual losses must be processed within 1 calendar year after they are filed.

(e) *Interest rates and terms.*—(1) *Interest rates.* * * *

(i) For disasters occurring on or after July 1, 1976, and prior to October 1, 1978, all actual loss loans (physical and production) approved on or after October 1, 1978, will be at 3-percent interest with a maximum loss loan limitation of \$250,000.

(ii) For disasters occurring on or after October 1, 1978, all actual loss loans (physical and production) will be at 5-percent interest and limited to the amount of the actual dollar loss.

(2) *Establishing repayment terms and delay of principal payments.* EM actual loss loans made at the 1-, 3-,

and 5-percent interest rates and approved before October 1, 1978, will be scheduled for repayment so that principal and interest on that portion of the loan bearing the lowest interest rate will mature before principal payments are scheduled for portions of the loan bearing higher rates. However, interest must be collected on the portion of the principal deferred during the period principal payments are not scheduled. The portion of the loan bearing the lower rate should be repaid as soon as possible, consistent with the applicant's repayment ability. This deferral of principal does not apply to EM loans for other than actual losses.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: October 4, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-28378 Filed 10-5-78; 8:45 am]

[3410-37]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2852—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—Regulations Governing Inspection and Certification

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document adjusts the rates charged for inspection and grading service to reflect recently announced Federal employees' salary increase and deletes the overtime surcharge to plants operating under a full-time year-round, inspection contract.

EFFECTIVE DATE: October 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Jacob J. Vollman, Chief, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4693.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946 authorizes the official inspection, grading, and certification of processed fruits, vegetables, processed products thereof, and certain other processed food products. Such service is voluntary and is made available upon request of financially interested parties and upon payment of a fee. The Act requires the fees to be reasonable and, as nearly as possible, to cover the cost of rendering the service.

The rising cost of maintaining the inspection service has made it necessary to adjust inspection and grading fees. These adjustments will compensate for 1978 increases in Government employee salaries as authorized by Congress, as well as increased personnel benefits resulting therefrom.

Accordingly, sections 2852.42 and 2852.52—Schedule of Fees and Charges for Inspection on a Contract Basis—are being revised to recover the increased costs.

Pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621-1627), §§ 2852.42, 2852.52(c); and 2852.52(d) are hereby amended to read as follows:

§ 2852.42 Schedule of fees.

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the regulations in this part, including analyses specified in § 2852.47, shall be at the rate of \$20.80 per hour plus an additional \$5 per hour for all scheduled overtime hours.

§ 2852.52 Charges for inspection services on a contract basis.

(c) Charges for year-round inplant inspection services on a contract basis will be charged to the applicant at least monthly for all hours worked with a minimum of 40 hours per week, holiday pay and night differential for each inspector assigned to perform the inspection services in accordance with the following schedule:

(1) For personnel assigned on a year-round basis: Each inspector—\$16 per hour.

(2) For personnel assigned on less than a year-round basis: Each inspector—\$18.50 per hour. Each subordinate inspector on the same shift with an inspector—\$13.50 per hour.

(3) *Travel expense.* No reporting charge will be made for regular full-time inspection personnel assigned on a year-round basis. Per diem and/or mileage will be charged when paid to

each inspector assigned on less than a year-round basis.

(4) *Holiday pay.* * * *

(5) *Night differential.* * * *

(6) *Overtime.* All overtime hours will be charged at the regular rates specified in (c) (1) and (2) of this section.

(d) Charges for less than year-round inplant inspection services on a contract basis will be billed to the applicant at least monthly for all hours with a minimum of 40 hours per week, holiday pay and night differential for each inspector assigned to perform the inspection services in accordance with the following schedule: (1) Each inspector—\$23.

Notice of proposed rulemaking, public procedure thereon, and the postponement of the effective time of this action later than October 8, 1978 (5 U.S.C. 553), are impractical, unnecessary, and contrary to the public interest in that: (1) The Agricultural Marketing Act of 1946 provides that the fees charged be reasonable and, as nearly as possible, cover the cost of the service rendered, (2) The increase in fee rates set forth herein are necessary to more nearly cover such cost including, but not limited to, Federal employee salary adjustments, and (3) Additional time is not required by the users of the inspection service to comply with the amendment.

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).)

NOTE.—The Food Safety and Quality 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.

Dated to become effective at 12:01 a.m., October 8, 1978.

Done at Washington, D.C. on October 4, 1978.

SYDNEY J. BUTLER,
Acting Administrator, Food
Safety and Quality Service.

[FR Doc. 78-28526 Filed 10-5-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

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

Distribution of Applications and Environmental Statements to Local Officials

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to provide for notice to the chief executives of the appropriate alternative municipalities or counties which have been identified in the application or environmental report as alternative sites for nuclear facilities or activities. The notice will include a brief description of, and other pertinent information regarding, the site and facility proposed or alternatively listed. The notice will include a statement that if a request is received from the appropriate chief executive of the alternative site, a copy of the application or environmental report, and any changes to such documents which affect the alternative site location, will be transmitted to the executive who makes the request. This amendment will assure that local officials of communities which are preferred or alternative sites for nuclear facilities are notified at the same time the initial application or environmental report is submitted to the Commission.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-492-7086.

SUPPLEMENTARY INFORMATION: By letter dated July 7, 1976, the township of Lower Alloways Creek, N.J., filed with the Nuclear Regulatory Commission a petition for rulemaking to amend 10 CFR 2.101 and 10 CFR 51.24 of the Commission's regulations.

In response to the petition for rulemaking PRM-51-2 the Commission published a notice of proposed rulemaking in the FEDERAL REGISTER on January 17, 1977 (42 FR 3178) to amend 10 CFR Parts 2 and 51.

The proposed amendment of § 2.101 set out in the January 17, 1977 notice would add a provision to paragraph (a)(3)(ii) that the applicant will also be requested to serve a copy of the ten-

dered application and/or environmental report on the chief executives of the appropriate municipalities or counties which have been identified in the application or environmental report as alternative sites.

The proposed amendment of § 2.101 would add a provision to paragraph (b) which pertains to applications for licenses for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee, that the applicant will also serve a copy of the application and environmental report, as appropriate, on the chief executives of the appropriate alternative municipalities or counties which have been identified in the application or environmental report as alternative sites.

The proposed amendment of § 51.24 would revise paragraph (c)(4) to provide that if the draft environmental impact statement is for a licensing action, copies of the draft statement and the applicant's environmental report will be provided to all parties to the licensing proceeding and the chief executives of all municipalities or counties which are identified in the draft statement as either preferred or alternative sites for the proposed facility or activity.

Six letters of comment were received on the petition for rulemaking and the notice of proposed rulemaking.

One commenter opposed the proposed rule, contending that jurisdictional officials and the public are aware of proposed projects even before the filing of an application; that the filing of applications with jurisdictional officials at alternative sites could have adverse impacts on local planning and land values; and that filing of the application would only serve to cause infighting between jurisdictions, possibly resulting in delays in the licensing process.

Although officials and the public may be aware of preferred sites before the filing of an application there is no assurance under present procedures that all officials with jurisdiction over alternative sites will know that a site in their area is under consideration or that the relative merits of such a site may have been the subject of dispute at hearings held in a different locale. The Commission is not convinced that furnishing such information to officials over alternative sites would have adverse impacts on local planning and land values, or cause jurisdictional conflicts resulting in licensing delays.

Three commenters opposed the proposed amendments on the grounds that they would require the service of voluminous and expensive documents upon individuals who have no real interest in receiving them, thereby placing an unjustified burden on applicants and municipal and county offi-

cials, without corresponding benefits to the public, the licensing process, or the municipalities or counties considered as alternative sites. These commenters suggested, however, that if some action is desired in this area, a more reasonable approach would be to notify the chief executives of municipalities or counties which have been designated as an alternative site in the application or environmental report of the availability of the documents. To the extent that such officials are interested, they could request copies of the documents.

It is the Commission's view that local officials of all of the communities or counties involved should be informed of the plans for a facility or a commercial waste disposal service or activity at the time the application or environmental report is submitted to the Commission. The Commission has concluded, however, that this objective can be accomplished in accordance with the alternative approach suggested by the three commenters noted in the preceding paragraph. Accordingly, the amendments set forth below have been revised to provide for notice to the chief executives of sites which have been identified in the application or environmental report as alternative sites. The notice will include a brief description of the proposed site and facility, the location of the site and facility proposed or alternatively listed, and will include a statement that if a request is received from the appropriate chief executive of the alternative site, a copy of the application or environmental report, and any changes to such documents which affect the alternative site location, will be transmitted to the executive who makes the request. A sentence has been added to §§ 2.101(a)(3)(ii) and 2.101(b) that an applicant in complying with those paragraphs should not make public distribution of those parts of the application subject to § 2.790(d); that is, information which identifies a licensee's or applicant's procedures for safeguarding licensed special nuclear material or detailed security measures for the physical protection of a licensed facility or plant in which licensed special nuclear material is possessed or used. A sentence has been added also that the applicant shall submit to the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, an affidavit that service of the notice of availability of the application and environmental report has been completed along with a list of names and addresses of those executives upon whom the notice was served.

One firm commented favorably upon the proposed rule and suggested that local public document rooms be set up

in the region of the alternative sites for displaying to the public the environmental report, draft environmental impact statement, and any other documents affecting the alternate sites. The Commission agrees that it may be desirable to establish a local public document room, or a mini-LPDR, in the region of the alternative sites in some cases. The Commission does not consider, however, that this should be done routinely. A determination will be made on a case-by-case basis after a survey of the public interest in the area of the alternative site.

One commenter encouraged the adoption of the proposed rule, but suggested that applications for amendments to existing licenses as well as new nuclear facilities and waste management facilities should be included, and notification and service of an application upon the appropriate governor or designated State government official should be included as well as municipal and county government. The suggestion regarding applications for amendments to existing licenses is outside the scope of this amendment inasmuch as the site would have been determined when the license was issued. The Commission's regulations already provide for distribution of applications and environmental reports to appropriate State officials.

The commenter also suggested that a provision for an early notice of intent to file and application be considered. It is the Commission's view that the present regulation, as amended below, provides for early notice to officials of alternative sites and notice of intent to file and application would not serve a useful purpose.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 2 and 51 are published as a document subject to codification.

1. Section 2.101 of 10 CFR Part 2 is amended by revising § 2.101(a)(3)(ii) and § 2.101(b) to read as follows:

§ 2.101 Filing of application.

(a) * * *

(3) * * *

(ii) Serve a copy on the chief executive of the municipality in which the facility is to be located or, if the facility is not to be located within a municipality, on the chief executive of the county, and serve a notice of availability of the application or environmental report on the chief executives of the municipalities or counties which have been identified in the application or environmental report as the location of all or part of the alternative sites, containing the following information:

Docket number of the application; a brief description of the proposed site and facility; the location of the site and facility as primarily proposed and alternatively listed; the name, address, and telephone number of the applicant's representative who may be contacted for further information; notification that a draft environmental impact statement will be issued by the Commission and will be made available upon request to the Commission; and notification that if a request is received from the appropriate chief executive, the applicant will transmit a copy of the application and environmental report, and any changes to such documents which affect the alternative site location, to the executive who makes the request. In complying with the requirements of this paragraph (a)(3)(ii) the applicant should not make public distribution of those parts of the application subject to § 2.790(d). The applicant shall submit to the Director of Nuclear Reactor Regulation an affidavit that service of the notice of availability of the application or environmental report has been completed along with a list of names and addresses of those executives upon whom the notice was served.

(b) After the application has been docketed, each applicant for a license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee shall serve a copy of the application and environmental report, as appropriate, on the chief executive of the municipality in which the activity is to be conducted or, if the activity is not to be conducted within a municipality on the chief executive of the county, and serve a notice of availability of the application or environmental report on the chief executives of the municipalities or counties which have been identified in the application or environmental report as the location of all or part of the alternative sites, containing the following information: Docket number of the application; a brief description of the proposed site and facility; the location of the site and facility as primarily proposed and alternatively listed; the name, address, and telephone number of the applicant's representative who may be contacted for further information; notification that a draft environmental impact statement will be issued by the Commission and will be made available upon request to the Commission; and notification that if a request is received from the appropriate chief executive, the applicant will transmit a copy of the application and environmental report, and any changes to such documents

which affect the alternative site location, to the executive who makes the request. In complying with the requirements of this paragraph (b) the applicant should not make public distribution of those parts of the application subject to § 2.790(d). The applicant shall submit to the Director of Nuclear Material Safety and Safeguards an affidavit that service of the notice of availability of the application or environmental report has been completed along with a list of names and addresses of those executives upon whom the notice was served.

2. Section 51.24 is amended by revising paragraph (c)(4) to read as follows:

§ 51.24 Distribution of draft environmental impact statement; news releases.

* * *

(c) * * *

(4) If the draft environmental impact statement is for a licensing action, (i) all parties to the licensing proceeding and the chief executive of the municipality or county identified in the draft environmental impact statement as the preferred site for the proposed facility or activity and (ii) the chief executives of municipalities or counties identified in the draft environmental impact statement as alternative sites who have requested a copy of the application.

(Secs. 53, 62, 81, 103, 104, 1611, Pub. L. 83-703, as amended; 68 Stat. 930, 932, 935, 936, 937, 948 (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201(i)); Sec. 201, Pub. L. 93-438, as amended; 88 Stat. 1242, 89 Stat. 413 (42 U.S.C. 5841); Sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332).)

Dated at Washington, D.C. this 2d day of October, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-28147 Filed 10-5-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1076; Amdt. No. 33]

PART 241—UNIFORM SYSTEMS OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Accounting for Troubled Debt Restructurings, Prior Period Adjustments, and Forward Exchange Contracts

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule 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. This rule was developed at the initiative of the Board.

DATES: Adopted: September 29, 1978.
Effective: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION:

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 2, 1978.

In EDR-357, dated June 1, 1978 (43 FR 25138, June 9, 1978) the Board gave notice of its intention to update the USAR to reflect three recent statements by the Financial Accounting Standards Board relating to troubled debt restructurings, prior period adjustments, and forward exchange contracts. It has been the Board's practice to revise the USAR periodically to include relevant pronouncements by authoritative bodies responsible for molding accounting principles and disclosure standards for American Business. This has been done to sustain the conformity of the Board's accounting regulations with generally accepted accounting principles. This conformity is important because it assists in maintaining the comparability of accounting practice throughout the air transportation industry and enables carriers to operate accounting systems which yield information acceptable for financial and governmental reporting purposes.

Comments were received in response to the rulemaking notice from Ameri-

can Airlines, Inc., and Hughes Airwest. Both were in support of the proposed rule. Hughes Airwest offered some suggestions of an editorial nature which have been considered and incorporated into the final rule where necessary to clarify the regulations. These changes involved adding cross-references in section 2-21 "Accounting for troubled debt restructurings."

Only one additional change was made to the specific language of the proposed rule, and it concerned the accounting instructions for forward exchange contracts. These contracts are agreements to exchange at a specified future date the currencies of different countries at a specified rate.

As discussed in EDR-357, this rulemaking proposed to amend the Board's accounting regulations to reflect the position of the Financial Accounting Standards Board (FASB) on accounting for forward exchange contracts in two ways: Setting the denomination of the forward contract and in corporation the FASB standard concerning the accounting for forward contracts when the amount of the contract exceeds the amount of the related commitment. The final rule adds a paragraph to section 2-3, specifying the FASB limitation that allows gains or losses to be deferred only on the amount in excess of the related commitment which is intended to be a hedge on an after-tax basis, as explained in EDR-357 (p. 5).

EFFECTIVE DATE

Although this amendment will be made effective after the normal 30-day period from publication in the FEDERAL REGISTER, this effective date should not be viewed as prohibiting earlier implementation of the following accounting requirements. Carriers are encouraged to apply these regulations to transactions occurring during calendar year 1978.

Accordingly, the Board amends 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 identified as follows:

Sec.

* * *

2-20 Accounting for leases.

2-21 Accounting for troubled debt restructurings.

* * *

2. Revise paragraph (g)(2)(ii) of section 2-3 to read as follows:

Sec. 2-3 Transactions in foreign currencies.

(g) * * *

(ii) The forward contract is denominated in the same currency as the foreign currency commitment.

3. Add a new paragraph (i) to section 2-3 to read as follows:

Sec. 2-3 Transactions in foreign currencies.

(i) The portion of a forward contract that shall be accounted for in accordance with paragraph (h) of this section is limited to the amount of the related commitment. If a forward contract that meets all of the conditions described in paragraphs (g)(2) (i) through (iii) of this section exceeds the amount of the related commitment, the gain or loss pertaining to a portion of the forward contract in excess of the commitment shall be deferred to the extent that the forward contract is intended to provide a hedge on an after-tax basis. A deferred gain or loss shall be offset against the related tax effects in the period the tax effects are recognized. A gain or loss pertaining to the portion of a forward contract in excess of the amount that provides a hedge on an after-tax basis shall not be deferred.

4. Revise 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 period 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.

5. Add 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 in accordance with paragraph (a)(6) of this section when the debtor transfers assets to the creditor in full settlement of the debt. The gain 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 in accordance with paragraph (a)(6) of this section 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 in accordance with paragraph (a)(6) of this section 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 paragraph (a)(3) of this section.

(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 occurring 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 on the restructuring of debt shall be recognized in accordance with paragraph (b)(6) of this section 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 on the restructuring of debt shall be recognized in accordance with paragraph (b)(6) of this section when the debtor transfers an equity interest to the creditor in full settlement of the debt to the extent that the recorded investment 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; 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 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 in accordance with paragraph (b)(6) of this section 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 paragraph (b)(3) of this section.

(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 the 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.

6. Amend Section 14 by revising paragraphs 88.6, 88.9 and 89.9 to read 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.

(Secs. 204(a), 407, 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. 78-28276 Filed 10-5-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 456—ADVERTISING OF OPHTHALMIC GOODS AND SERVICES

Interpretation of Trade Regulation Rule and Reply to Request for Exemption from Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Interpretation of Trade Regulation Rule; Reply to Request for Exemption from Trade Regulation Rule.

SUMMARY: The Federal Trade Commission has issued two interpretations of its trade regulation rule concerning the Advertising of Ophthalmic Goods and Services (16 CFR 456). One interpretation states that a refusal by a newspaper, or other advertising medium, to accept or publish an ophthalmic advertisement does not violate the provisions of the rule. The other interpretation states that a refractionist may deliver to his or her patients a written statement which says that the refractionist believes that the seller of the ophthalmic goods dispensed pursuant to the refractionist's prescrip-

tion is responsible for the accuracy of those goods.

The Commission also answered a request by the Virginia State Board of Examiners in Optometry for an exemption from this trade regulation rule for certain disclosure requirements which were recently adopted by the Board. The Commission found that some of those requirements conflict with the trade regulation rule while others do not, and the Commission granted no exemption for those requirements that do conflict.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary D. Hailey or Scott P. Klurfeld, Room 279, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3427.

SUPPLEMENTARY INFORMATION:

The Federal Trade Commission has issued two interpretations of its final trade regulation rule on the Advertising of Ophthalmic Goods and Services, 16 CFR Part 456. The first interpretation concerns the rule's proscription of conduct which prohibits, limits or burdens the dissemination of information. The Commission has determined that the refusal of a newspaper, or any other media, to accept or publish an ophthalmic advertisement does not constitute a prohibition, limitation or burden on the dissemination of information as those terms are used in 16 CFR Part 456.

The second interpretation concerns the meaning of § 456.7(d) of the rule which prohibits refractionists from "warning or disclaiming" responsibility for the accuracy of ophthalmic goods sold by another seller. The restriction does not cover statements by the refractionist as to whom the refractionist believes is liable or responsible. Thus, the Commission has interpreted its rule to permit refractionists to inform their patients as to whom they believe is responsible for the accuracy of goods dispensed, as long as the statement is not coupled with a waiver or disclaimer of the refractionist's liability. The complete interpretations are set out below:

**FEDERAL TRADE COMMISSION
INTERPRETATIONS OF 16 CFR PART 456**

In § 456.1 of the Commission's trade regulation rule on the Advertising of Ophthalmic Goods and Services, 16 CFR Part 456, the term "dissemination of information" is defined to include the use of any media to provide to the public information concerning ophthalmic goods, services, and eye examinations. In §§ 456.2, 456.3, 456.4, and 456.6 of the rule, prohibitions,

limitations and burdens on the dissemination of information are proscribed.

The question has arisen as to whether the refusal of a newspaper or any other media to accept an ophthalmic advertisement constitutes a prohibition, limitation or burden on the dissemination of information. The Commission has determined that the refusal of a newspaper, or any other media, to accept or publish an ophthalmic advertisement does not constitute a prohibition, limitation or burden on the dissemination of information as those terms are used in 16 CFR Part 456.

The Commission's intent in adopting the rule was to permit, not to require, persons to provide information to the public. The issue of whether the media should be compelled to accept advertisements was not considered in the course of the rulemaking proceeding in this matter nor was its inclusion as an issue in this proceeding ever contemplated by the Commission. Other situations exist in which the refusal by an individual to "permit" an advertisement would not be considered a "prohibition, limitation or burden." For example, the refusal of a property owner to permit a seller or refractionist to post a sign or billboard advertising ophthalmic goods or services on the land of the property owner would similarly not violate the rule.

A second interpretive question has arisen concerning the meaning of § 456.7(d) of the rule which prohibits refractionists from "waiving or disclaiming" responsibility for the accuracy of ophthalmic goods sold by another seller. By its terms, the rule proscribes only "waivers or disclaimers" of responsibility. This restriction does not encompass statements by the refractionist as to whom the refractionist believes is liable or responsible.

The Commission has interpreted its rule to permit affirmative statements concerning responsibility. For example, a statement "the person who dispenses your eyeglasses is responsible for their accuracy" would not violate § 456.7(d) even if delivered in writing.

Thus, any refractionist may, without violating § 456.7(d), include on the prescription or deliver to the patient a written statement stating the refractionist's belief that the seller of the ophthalmic goods dispensed pursuant to the refractionist's prescription is responsible for the accuracy of those goods. However, this cannot be coupled with a waiver or disclaimer of the refractionist's liability.

In adopting § 456.7(d), the Commission was concerned that negative statements disclaiming liability served to confuse consumers on the issue of responsibility. The Commission has been unable to find any legal precedent under which a refractionist has

been held liable for the accuracy of ophthalmic goods dispensed by another seller (absent a contractual relationship between the refractionist and the seller).

The Commission expresses no opinion as to the desirability of making affirmative statements on the issue of liability. Nor does the Commission express any opinion as to where liability properly rests in any dispute between a refractionist and a person who dispenses ophthalmic goods pursuant to that refractionist's prescription. Rather, the Commission is simply permitting refractionists to inform their patients as to whom they believe is responsible for the accuracy of goods dispensed.

**VIRGINIA'S REQUEST FOR EXEMPTION
FROM 16 CFR PART 456**

On August 2, 1978, the Commonwealth of Virginia, through its Board of Examiners in Optometry, requested an exemption from the Federal Trade Commission's trade regulation rule on the Advertising of Ophthalmic Goods and Services, 16 CFR Part 456, for certain disclosure requirements mandated by Virginia law. The Commission determined that some of the Virginia requirements do not conflict with the rule, and are therefore permissible. Other Virginia requirements were found to conflict with the Commission's rule and no exemption from the rule was granted.

The letter from the Virginia Board is set out below as Appendix A. The Federal Trade Commission's reply is set out below as Appendix B.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

APPENDIX A

The Federal Trade Commission
6th and Pennsylvania Avenue, N.W.
Washington, D.C. 20580

GENTLEMEN: I am herewith submitting application for exemption to the Federal Trade Commission's regulations governing the price advertising of ophthalmic goods and services. This exemption is being sought under § 456.5(c).

The rules and regulations of the Virginia State Board of Examiners in Optometry containing permissive advertising practices for which we seek exemptions are as follows:

"3. *Advertising disclosure requirements.* The following regulations are promulgated pursuant to section 54-396(9) of the Code of Virginia (1950) which permits the advertising of prices, or discounts from such prices of eyeglasses, spectacles, lenses, frames, mountings and prosthetic devices under the condition that such advertising include and specify the kind, type, and quality of the advertised item in accordance with these regulations. Under section 54-397 of the Code of Virginia (1950), a violation of these regulations is a criminal offense punishable by up to six (6) months in jail and a five hundred

dollar (\$500.00) fine. Each separate advertisement in violation of these regulations published in any media shall be considered a separate offense.

(a) *Kind, type, and quality of ophthalmic frames.* All advertisements of ophthalmic frames or temples shall specify (1) the name of the manufacturer, (2) the manufacturer's identifying name or number of the frame, (3) the country of manufacture and (4) material as plastic, metal, or combination plastic and metal unless the frame is illustrated. This information may not be abbreviated, except that the United States of America may be identified as "U.S.A."

(b) *Kinds and types of ophthalmic lenses.* Where applicable advertisements for ophthalmic lenses must indicate that prices are variable depending on the individual's specific prescription. All lenses shall be described as clear, tinted, or photochromic and as glass or plastic, single vision, bifocal, trifocal, occupational and aphakic lenses shall be identified as such. Advertisements for bifocal lenses, except for executive/dualens types, shall state segment size. Advertisements for trifocal lenses, except for executive/dualens and variable focus types, shall state segment size. Occupational lenses shall be further described as double bifocal or quadrifocal. Aphakic lenses shall be further described as lenticular aspheric, lenticular non-aspheric, full field aspheric, or full field non-aspheric. All advertisements of ophthalmic lenses shall specify (1) the name of the manufacturer, (2) the manufacturer's identifying name or number of the lens, and (3) the country of manufacture.

(c) *Kinds and types of contact lenses.* All advertisements of contact lenses must specify: (1) name of manufacturer, (2) country of manufacturer, and (3) type as "hard" or "soft". Bifocal contact lenses must be identified as such.

(d) *Quality of ophthalmic and contact lenses.* The advertisements of any lens which is (1) not purchased from a manufacturer or wholesaler who warrants that the lens meet American National Standards Institute (ANSI) specifications, or (2) does not in fact meet ANSI specifications, shall contain the statement "Does Not Meet ANSI Standards".

(e) *Kinds and types of prosthetic devices.* Artificial eyes must be identified as stock, modified stock, or custom.

(f) All advertisements quoting prices or discounts from prices of eyeglasses, spectacles, lenses, frames, mounting or prosthetic devices shall contain the statement—"Does Not Include Eye Examination".

(g) All disclosure items must be in type no smaller than ten (10) point type.

(h) If discounts are advertised, they must include the regular price of items to be "discounted."

The Virginia Board of Examiners in Optometry seeks the exemption in whole or in part to the aforementioned regulations which were lawfully promulgated in this State in the public's interest.

Your immediate attention and early response to this application will be greatly appreciated.

Sincerely,

BERNARD STIER,
President.

APPENDIX B

Re Application for Exemption from Trade Regulation Rule on the Advertising of

Ophthalmic Goods and Services (16 CFR Part 456).

BERNARD STIER, O.D.,
President, State Board of Examiners in Optometry, Commonwealth of Virginia,
Seaboard Building, Room 457, 3600 West
Broad Street, Richmond, Va. 23230.

DEAR DR. STIER: We are writing this letter in response to your request dated July 21, 1978 (which was received by the Commission on August 2, 1978), for an exemption from the Commission's trade regulation rule on the Advertising of Ophthalmic Goods and Services, 16 CFR Part 456, for certain disclosure requirements applicable to the advertising of ophthalmic goods and prosthetic devices adopted by the Virginia State Board of Examiners in Optometry pursuant to its statutory authority.

As you are aware, prior to the promulgation of this trade regulation rule by the Commission, many States specifically prescribed all ophthalmic advertising. During the course of the Commission's rulemaking proceedings on this matter, many persons testified that the imposition of disclosure requirements that were not necessary to curb unfairness or deception would serve to burden advertising unduly.

Our response to your exemption application will address, first, those disclosure requirements contained in your regulations which are specifically permitted under the Commission's rule.

1. Section 456.5(a)(1) of the Commission's rule specifically authorizes the States to require that ophthalmic advertisements state "whether an advertised price includes single vision and/or multifocal lenses." The Commission did not thereby limit the permissible wording of disclosure requirements in this area. Rather, the Commission set forth the subject matter on which disclosures could be imposed by the States. Thus, the Commission determined that Virginia's Rule 3(b), which requires that advertisements state whether "single vision, bifocal, trifocal, occupational and aphakic lenses" are included within an advertised price does not contravene 16 CFR 456.5.

2. Virginia's Rule 3(c), which requires that advertisements for contact lenses specify whether the price applies to hard or soft contact lenses, or bifocal contact lenses, is authorized by § 456.5(a) (1) and (2).

3. Virginia's Rule 3(e), concerning prosthetic devices, does not conflict with the Commission's rule. The Commission's rule applies only to advertisements of ophthalmic goods, services, and eye examinations. The rule does not extend to artificial eyes. Thus, Virginia's rule 3(e) is not affected by the Commission's rule.

4. Virginia's rule 3(g) is not inconsistent with the Commission's rule. The trade regulation rule adopted by the Commission places no limitation on the manner in which the States require information to be disclosed, so long as the subject matter of the disclosure does not conflict with the trade regulation rule. Accordingly, Virginia's requirement that all disclosures be in 10-point type is not inconsistent with the Commission's rule.

5. Rule 3(f) of the Virginia rule is, to a degree, inconsistent with the Commission's rule and the Commission has determined that an exemption would be inappropriate. The Commission's rule authorizes refractionists to advertise their eye examination services. Section 456.5(a)(3) authorizes the States to require that price advertisements

state whether an eye examination is included in the stated price. Thus, Virginia remains totally free to require that advertisements state whether or not an eye examination is included. However, it would be inconsistent with the Commission's rule for Virginia to require that all sellers state that an eye examination is not included in an advertised price.

6. Section 456.5(b) of the Commission's rule permits the States to impose on advertising for ophthalmic goods and services any disclosure requirements that the State applies across-the-board to all advertising for consumer goods and services. However, Virginia's rules 3 (a), (b) (insofar as it requires the disclosure of the "name of the manufacturer * * * the manufacturer's identifying name or number of the lens * * * and, the country of manufacturer"), (c) (1) and (2), and (h) apply to ophthalmic advertising burdensome disclosure requirements which apparently are not required in all advertisements for consumer goods or services. While this information may be of interest to some consumers, it does not appear to be necessary to prevent deception. Moreover, the Commission can find no justification, and you have suggested none, for limiting such disclosures to ophthalmic advertising.

Accordingly, the Commission has determined that Virginia's rules 3 (a), (b) (in part, as set forth above), (c) (1) and (2), and (h) are inconsistent with the Commission's rule and that no exemption should be granted. As noted above, if the Commonwealth of Virginia should require such disclosures in advertising for all consumer products and services, rather than singling out ophthalmic advertising, the Commission's rule will permit their application to advertising for ophthalmic goods.

7. Virginia's rule 3(d) also conflicts with the Commission's rule, and the Commission has determined that an exemption should not be granted. The Commission fully supports the concept of maintaining high quality in the provision of vision care products and services, and Virginia remains free to, for example, require that all lenses meet ANSI specifications. However, Virginia apparently has no such rules. Nor, apparently, is a seller who chooses not to advertise prohibited from providing consumers with lenses not satisfying the ANSI Z80 standards without disclosing that fact. Some recent empirical research indicates that the lenses produced by manufacturers and wholesale laboratories which claim to meet the ANSI standard frequently do not.¹ The testimony offered at the public hearings on the TRR indicates that it is very unlikely that an optometrist would verify each lens sold against each and every parameter of the ANSI standard, when that lens is warranted to meet the standard by the supplier. Accordingly, most, if not all, sellers who advertise would be required to state that their products do not meet the ANSI standard. The Commission finds that this would constitute an unwarranted burden on advertising.

8. Finally, the disclosure requirements embodied in Virginia rule 3(b) (except those discussed above) conflict with the Commission's rule, and the Commission has deter-

¹"An Examination of Ophthalmic Prescription Spectacle Quality Relative to American National Standard Z80.1-1972," George A. Chase, Ph. D., and Ben E. Lynch, Optical Index, vol. 53, No. 3, March 1978, pp. 17-52.

mined that an exemption should not be granted. The Commission has concluded that detailed information on segment size in multifocal lenses, the types of occupational lenses and aphakic lenses, and whether glasses include tint or are composed of glass or plastic, are not necessary to prevent deception. The Commission has not determined that this information is not of interest to consumers, rather, it has simply determined that an advertisement, absent this information, is not deceptive.

Thus, to summarize the Commission's response, rule 3(b), insofar as it requires the disclosure of "(whether a lens is) single vision, bifocal, trifocal, occupational (or) aphakic", 3(c)(3), 3(e), and 3(g) are deemed not to conflict with the Commission's trade regulation rule.

All of the other disclosure requirements promulgated by the Virginia Board of Examiners in Optometry are deemed to be inconsistent with the Commission's rule. It is determined that no exemption should be granted for these requirements.

We would like to reiterate our position that any disclosure requirements imposed on all advertising for consumer goods and services by the Commonwealth of Virginia are automatically excluded from the coverage of the Commission's rule.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-28216 Filed 10-5-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15195; File No. S7-757]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Annual Assessment Form for SECO Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of form.

SUMMARY: The Securities Exchange Act of 1934 authorizes the Commission to collect such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed with respect to broker-dealers who are not members of a registered national securities association ("nonmember" or "SECO" broker-dealers). This form sets forth the annual schedule under which SECO broker-dealers are to be assessed for fiscal year 1978.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Daniel Bateman, Division of Market Regulation, Room 501, Securities

and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, 202-755-1300.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today that it has adopted form SECO-4-78 which sets forth the annual assessment payable to the Commission for fiscal year 1978 by registered broker-dealers who are not members of a registered national securities association. Form SECO-4-78 was proposed and published for public comment on August 25, 1978 (43 FR 38026) (Securities Exchange Act Release No. 34-15074, August 18, 1978).

In adopting form SECO-4-78, for this year, the Commission has determined to modify the annual SECO assessment schedule by reducing the gross income assessment from 0.2 percent to 0.17 percent for municipal securities transactions and from 0.25 percent to 0.21 percent for other OTC securities transactions. These assessments are being reduced to adjust the anticipated revenues to more closely approximate the expected regulatory costs of the SECO program and to continue the Commission's policy over the years of maintaining general comparability with the fees and assessments charged by the National Association of Securities Dealers, Inc. (NASD). The annual base member assessment and the annual personnel assessment (\$250 and \$5 respectively) will remain unchanged.

NOTICE OF DUE DATE FOR FILING FORM SECO-4-78

SECO broker-dealers filing form SECO-4-78 should note that they are required to file the form and remit any assessments payable to the Commission by October 31, 1978.

STATUTORY BASIS

The modifications of 1978 assessments for SECO broker-dealers are adopted pursuant to the Securities Exchange Act of 1934 and particularly sections 15(b)(7), 15(b)(8), and 23(a) thereof. The Commission finds that any burden imposed upon competition by the amendments is necessary and appropriate in furtherance of the purposes of the Act, particularly to implement the Commission's continuing mandate under section 15(b)(8) to collect such reasonable fees and charges as may be necessary to defray the costs of the specified regulatory duties required to be performed with respect to nonmember broker-dealers. The Securities and Exchange Commission, pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975)) and particularly sections 15(b)(7), 15(b)(8), and 23(a)

thereof, amends part 249 of title 17 of the Code of Federal Regulations by adopting § 249.504/ as follows:

§ 249.504/ Form SECO-4-78, 1978 assessment and information form for registered brokers and dealers not members of a registered national securities association.

This form shall be filed on or before October 31, 1978, pursuant to § 240.15b9-2 of this chapter, accompanied by the annual assessment fee required thereunder, for the fiscal year ended September 30, 1978, by every registered broker and dealer not a member of a registered national securities association. Those broker-dealers which are exempt from the payment of any assessment or fee pursuant to the provisions of § 240.15b9-2(e) must still file the form.

Copies of the form have been filed with the Office of the Federal Register, and additional copies are available on request from the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 28, 1978.

[FR Doc. 78-28242 Filed 10-5-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 78N-0118]

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Redelegations of Authority From the Commissioner of Food and Drugs

CERTIFICATION OF TRUE COPIES; CORRECTION

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: In FR Doc. 78-18559 appearing at page 29286 in the FEDERAL REGISTER of July 7, 1978, § 5.22 Certification of true copies and use of the Department Seal (21 CFR 5.22) is corrected in paragraph (a)(ii) by changing "the Associate Director for Regulatory Policy" to read "the Assistant Director for Regulations Policy."

EFFECTIVE DATE: July 7, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2994.

Dated: September 29, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-28211 Filed 10-5-78; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

Lidocaine Hydrochloride Injection with Epinephrine

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Carter-Glogau Laboratories Division, Chromalloy Pharmaceuticals, Inc., for an injectable local anesthetic for use in horses, cattle, dogs, and cats.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Carter-Glogau Laboratories Division, Chromalloy Pharmaceuticals, Inc., 5160 West Bethany Home Road, Glendale, Ariz. 85301, filed NADA 45-578V providing for the safe and effective use of lidocaine hydrochloride injection with epinephrine as a local anesthetic for use in horses, cattle, dogs, and cats.

The drug was the subject of a National Academy of Sciences/National Research Council (NAS/NRC) review, published in the FEDERAL REGISTER of August 5, 1970 (35 FR 12493). The Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product is probably effective for use as a local anesthetic in cattle, horses, dogs, and cats. The Academy stated:

1. The use of a central nervous system stimulant is contraindicated in the treatment of overdoses of local anesthetics. Use of oxygen and an arterial pressor agent such as norepineph-

rine are to be preferred over the use of an analeptic or central nervous system agent, i.e., pentamethylenetetrazole, in treatment of shock induced by lidocaine hydrochloride.

2. Under the caution portion of the package insert, the user should be warned of the possibility of central nervous system excitation or convulsive seizures when lidocaine hydrochloride is employed for local anesthetic purposes. The use of ultrashort or short-acting barbiturates and oxygen are recommended in antidoting convulsive seizures produced by overdoses of a local anesthetic.

The NAS/NRC review was published to inform holders of NADA's of the findings of the Academy and FDA, and to inform all interested persons that such articles may be marketed provided they are the subject of approved NADA's and otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act. NADA's submitted for lidocaine injection with epinephrine, which reflect those conditions of use set forth in the August 1970 notice, do not require efficacy data as specified by §§ 514.1(b)(8)(ii) or 514.111(a)(5)(vi) (21 CFR 514.1(b)(8)(ii) and 514.111(a)(5)(vi)). In lieu of such data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs. Those conditions of use are identified in § 522.1258 by a footnote. The guideline is available from the Hearing Clerk (HFC-20), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(d), 82 Stat. 347 (21 U.S.C. 360b(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 522 is amended by adding new § 522.1258 to read as follows:

§ 522.1258 Lidocaine injection with epinephrine.

(a) *Specifications.* Each milliliter of the drug contains 20 milligrams (2 percent) of lidocaine hydrochloride, 0.01 milligram of epinephrine, with sodium chloride, and with methylparaben as a preservative, in water for injection.

(b) *Sponsor.* See No. 000381 in § 510.600(c) of this chapter.

(c) *Conditions of use.*—(1) *Amount.* The drug is administered by injection as a 2-percent solution or diluted with bacteriostatic water for injection to a 0.5 percent solution for local anesthesia of large and small animals, as follows:

(i) *Cats:* Administer approximately 2 milliliters of 2 percent solution with epinephrine by caudal injection.

(ii) *Cattle:* Administer 5 milliliters of 2 percent solution with epinephrine by epidural injection (standing animal). Administer 10 to 20 milliliters of 2 percent solution with epinephrine by cornual nerve block injection. For test operations and infiltration, inject 0.5 percent solution with epinephrine to effect.

(iii) *Dogs:* Administer 2 to 10 milliliters of 2 percent solution with epinephrine by caudal injection. Do not give intravascularly. For infiltration, administer 0.5 percent solution with epinephrine to effect.

(iv) *Horses:* Administer 5 to 10 milliliters of 2 percent solution with epinephrine by volar nerve block. Administer 10 to 15 milliliters of 2 percent solution with epinephrine by epidural injection. For standing animal, apply slowly and observe individual sensitivity. For infiltration, administer 0.5 percent solution with epinephrine to effect.

(2) *Limitations.*—(i) The drug is contraindicated in the presence of sepsis in the region of proposed injection, shock and heart block, neurologic disease, spinal deformities, septicemia, and hypertension.

(ii) Do not give intravascularly.

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

Effective date. This regulation shall be effective October 6, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(1)).)

Dated: September 28, 1978.

LESTER M. CRAWFORD,
Director, Bureau
of Veterinary Medicine.

[FR Doc. 78-28085 Filed 10-5-78; 8:45 am]

[4110-03]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Bambermycins

AGENCY: Food and Drug Administration.

These conditions are National Academy of Science/National Research Council reviewed and deemed effective for this drug. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter but may require bioequivalency and safety information.

ACTION: Final rule.

SUMMARY: This rule amends the regulations to reflect approval of a supplemental new animal drug application (NADA) filed by American Hoechst Corp., providing for safe and effective use of a lower concentration bambermycins premix for subsequent manufacture of swine feed. The resulting swine feed would increase the rate of weight gain.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Agricultural Division, Route 202-206, North, Somerville, NJ 08876, filed a supplemental NADA (44-759V) providing for use of a 0.4-gram-per-pound bambermycins premix in manufacturing a 2-gram-per-ton complete swine feed. The resultant feed would increase the rate of weight gain and improve feed efficiency. The feed would be used in accordance with approved conditions of use. Under the original application, the firm also holds approval for production of a 2-gram-per-ton complete swine feed from a 2-gram-per-pound bambermycin premix.

Approval of this supplement does not constitute a reevaluation of the original application nor does it reaffirm the safety and effectiveness of this drug.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 558 is amended in § 558.95 by revising paragraph (b) to read as follows:

§ 558.95 Bambermycins.

(b) *Approvals.* (1) Premix level of 2 grams of bambermycins activity per pound of premix has been granted to No. 012799 in § 510.600(c) of this chapter for use as provided in paragraph (e) (1) and (2) of this section.

(2) Premix level of 0.4 gram of bambermycins activity per pound of premix has been granted to No. 012799 for use as provided in paragraph (e)(2) of this section.

Effective date. This regulation shall be effective October 6, 1978.

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

Dated: September 28, 1978.

LESTER M. CRAWFORD,
Director, Bureau
of Veterinary Medicine.

[FR Doc. 78-28086 Filed 10-5-78; 8:45 am]

[4110-03]

SUBCHAPTER I—REGULATIONS UNDER CERTAIN OTHER ACTS ADMINISTERED BY THE FOOD AND DRUG ADMINISTRATION

[Docket No. 75N-0115]

PART 1220—REGULATIONS UNDER THE TEA IMPORTATION ACT

Tea Standards

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes tea standards for the year beginning May 1, 1978, and ending April 30, 1979. The tea standards are provided for under the Tea Importation Act.

DATES: Effective October 6, 1978; comments by November 6, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ralph A. Strand, Bureau of Foods (HFF-314), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1567.

SUPPLEMENTARY INFORMATION: This amendment is based on the recommendation of the Board of Tea Experts, which comprises tea experts drawn from the Food and Drug Administration (FDA) and the tea trade, who are representative of the trade as a whole. By law (21 U.S.C. 42), the tea standards are to be revised annually, and FDA has set the effective date for the standards as May 1 by regulation (21 CFR 1220.41). The standards have been publicly available since the Board's report on April 4, 1978 and have been enforced in accordance with 21 U.S.C. 41 since then. Because the official publication date has passed and FDA has been enforcing the standards, the Commissioner concludes that the standards for the current year should be published without delay. For these reasons, the Commissioner finds also that it is unnecessary, impractical, and contrary to the public interest to initiate a notice and comment rulemaking proceeding at this time.

The Commissioner therefore is invoking the good cause exemption pro-

visions of the Administrative Procedure Act (5 U.S.C. 553(b)(B) and (d)(3) and 21 CFR 10.40(c)(4) and (e)(1)) and is issuing this notice as a final rule effective immediately without notice of proposed rulemaking. However, interested persons may submit comments on this notice by November 6, 1978, as provided by 21 CFR 10.40(f)(10). If the comments necessitate agency action, the Commissioner will publish a notice in the Federal Register, discussing the comments and announcing the action determined to be necessary.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 25.1(d)(4) (21 CFR 25.1(d)(4)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this amendment.

Therefore, under authority vested in the Secretary of Health, Education, and Welfare by the Tea Importation Act (secs. 3, 10, 29 Stat. 605, 607, 41 Stat. 712, 54 Stat. 1237, 67 Stat. 631 (21 U.S.C. 43, 50)) and delegated to the Commissioner (21 CFR 5.1), Part 1220 is amended by revising § 1220.40(a) to read as follows:

§ 1220.40 Tea standards.

(a) Samples for standards of the following teas, prepared, identified, and submitted by the Board of Tea Experts on April 4, 1978, are hereby fixed and established as the standards of purity, quality, and fitness for consumption under the Tea Importation Act for the year beginning May 1, 1978, and ending April 30, 1979:

- (1) Formosa Oolong.
- (2) Black Tea other than China, Formosa, Japan Type (to be used for all black teas except those from China, Formosa, and Japan).
- (3) Black Tea, China, Formosa, Japan Type (to be used for black teas from China, Formosa, and Japan).
- (4) Green Tea (to be used for all green teas).
- (5) Canton Oolong Type (to be used for all Canton type teas of Formosa or China origin).
- (6) Scented Black Tea.
- (7) Spiced Tea.

These standards apply to tea shipped from abroad on or after May 1, 1978. Tea shipped prior to May 1, 1978 will be governed by the standards that became effective on May 1, 1977.

Effective date. This regulation shall become effective October 6, 1978.

(Secs. 3, 10, 29 Stat. 605, 607, 41 Stat. 712, 54 Stat. 1237, 67 Stat. 631 (21 U.S.C. 43, 50))

Dated: September 27, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-27961 Filed 10-5-78; 8:45 am]

[6820-24]

**Title 41—Public Contracts and
Property Management**

**CHAPTER 1—FEDERAL
PROCUREMENT REGULATIONS**

[FPR Amdt. 194]

**PART 1-3—PROCUREMENT BY
NEGOTIATION**

**Proposal Evaluations and Contract
Pricing**

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment makes a number of changes in Part 1-3, Procurement by Negotiation, to strengthen competitive negotiation procedures. The need for the changes has been established by ongoing Office of Federal Procurement Policy (OFPP) and General Accounting Office (GAO) reviews and evaluations of competitive negotiation procedures. To the extent practicable, uniformity with the Defense Acquisition Regulation (DAR (ASPR)) is provided. The intended effect is to promote economy, efficiency, and effectiveness in Federal procurement.

EFFECTIVE DATE: November 6, 1978, but may be observed earlier.

**FOR FURTHER INFORMATION
CONTACT:**

Philip G. Read, Director of Federal
Procurement Regulations, 703-557-
8947.

SUPPLEMENTARY INFORMATION: The amendment prescribes an additional level of review for noncompetitive procurements, based on a Comptroller General (CG) Report (B-160725, Sept. 15, 1977) entitled "Competition for Negotiated Government Procurement Can and Should Be Improved" and OFPP memorandum to the executive departments and establishments, January 25, 1978, subject: Competition for Negotiated Procurement. The amendment also prescribes circumstances in which preaward notices to offerors are required, based on a CG decision (B-190667, Feb. 22, 1978).

The amendment also removes references in the FPR that heretofore have recognized that some agencies have prescribed procedures which administratively imposed blanket fee limita-

tions for cost-plus-fixed-fee (CPFF) contracts which are lower than the ceilings specified in section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)). The need for removing these references is based on OFPP reviews and evaluations of contract pricing and profit policies, including a public meeting on November 4, 1976. This action will not affect an agency determination to pay a fee that is lower than the statutory blanket ceilings, or preclude agency guidance to contracting officers in determining fair and reasonable fees applicable to certain classes of procurements.

The amendment prescribes changes in the provisions regarding pricing techniques. An earlier proposal would have added provisions essentially uniform with ASPR in regard to a contractor's claim for exemption from the submission of certified cost or pricing data. However, OFPP has determined that the action should be deferred pending an effort to develop a Standard form and uniform provisions which will be responsive to agencies' needs while minimizing the paperwork burden on Government contractors.

Based on GAO recommendations reflected in CG decisions (B-176223 (52 Comp. Gen. 161); B-185860, Sept. 14, 1976; and B-187587 (56 Comp. Gen. 725)); the amendment provides that requests for proposals shall state the relative importance of evaluation criteria the Government will use to select a contractor. Where an agency uses numerical weights in the evaluation process, the amendment also provides that they may be disclosed in the solicitation.

Subpart 1-3.1—Use of Negotiation

1. Section 1-3.101 is amended to revise paragraph (d), as follows:

§ 1-3.101 General requirements for negotiation.

(d) Negotiated procurement shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be noncompetitive, the procuring activity is responsible not only for ensuring that competitive procurement is not feasible but also for acting whenever possible to avoid the need for subsequent noncompetitive procurements. This action shall include both examination of the reasons for the procurement being noncompetitive and steps to foster competitive conditions for subsequent procurements, particularly as to the availability of complete and accurate data, reasonableness of delivery requirements, and possible breakout of components for competitive procurements. Except for procurement of

electric power or energy, gas (natural or manufactured), water, or other utility services, and procurement of educational services from nonprofit institutions, contracts of more than \$10,000 shall not be negotiated on a noncompetitive basis without prior review at a level higher than the contracting officer to ensure compliance with this § 1-3.101(d).

2. Section 1-3.103 is amended to add a new paragraph (b) and to redesignate existing paragraphs (b) and (c) as (c) and (d) respectively, as follows:

§ 1-3.103 Dissemination of procurement information.

(a) * * *

(b) Preaward notices of proposal status shall be provided to offerors under the following specific conditions.

(1) In any procurement of more than \$10,000 in which it appears that it will take longer than 30 days to make an award after (i) a proposal has been determined to be unacceptable or (ii) a competitive range determination has been made (see § 1-3.805), the contracting officer shall provide a prompt notice to the source submitting the proposal when a determination has been made that the proposal will not be considered further for award. Such a notice need not be given where the proposed contract is to be awarded within a few days after the determination and a notice pursuant to paragraph (c) of this § 1-3.103 would suffice.

(2) Notices pertaining to unacceptable proposals normally shall (i) indicate in general terms the basis for the determination, (ii) advise that, since further negotiation with the offeror concerning the procurement is not contemplated, a revision of the proposal will not be considered, and (iii) specify that no further information will be available until a later time.

(3) Notices pertaining to determinations of competitive range shall be provided to all offerors at the same time, whether or not their proposals are within the competitive range (see also § 1-3.802-2(g)). Notices to offerors that are not within the competitive range normally shall include information as described above for unacceptable offers. Where sources that are determined to be outside the competitive range number over 15, the basis for the determination may be omitted if the notified offerors are informed that the basis for the determination or nonselection for further discussion or negotiation will be furnished at a later time, upon inquiry. Notices to offerors that are within the competitive range need only state that fact.

(4) Notices pertaining to late proposals are addressed in §§ 1-3.802-1 and 1-3.802-2.

(c) Promptly after making awards in any procurement in excess of \$10,000, the contracting officer normally shall give written notice to the unsuccessful offerors that their proposals were not accepted. Upon request, unsuccessful offerors whose offered prices were lower than those of the contractor which received the award shall be furnished the reasons why their proposals were not accepted; but in no event will an offeror's cost breakdown, profit, overhead rates, trade secrets, or other confidential business information be disclosed to any other offeror.

(d) Classified information shall be furnished only in accordance with agency regulations governing the handling of classified information.

Subpart 1-3.4—Types of Contracts

Section 1-3.405-5 is amended to revise the introductory material in paragraph (c)(2), as follows:

§ 1-3.405-5 Cost-plus-a-fixed-fee contract.

(c) * * *

(2) The fixed fees shall not exceed the limitations set forth in the first sentence of section 304(b) of the Act (41 U.S.C. 254(b)), which sentence reads in part as follows:

Subpart 1-3.8—Price Negotiation Policies and Techniques

1. Section 1-3.802 is amended to revise paragraph (c), as follows:

§ 1-3.802 Preparation for negotiation.

(c) *Requests for proposals.* (1) Requests for proposals shall contain the information necessary to enable a prospective offeror to properly prepare a quotation or proposal. The request for proposals shall be as complete as possible with respect to (i) item descriptions or statements of work, (ii) specifications, (iii) Government-furnished property, if any, (iv) required delivery schedule, (v) special provisions, (vi) cost or pricing data requirements (see § 1-3.807-3), and (vii) contract clauses.

(2) Each request for proposals shall state the relative importance of cost or price, technical considerations, and other factors for purposes of proposal evaluation and contract award. Numerical weights which may be employed in the evaluation of proposals may be disclosed in solicitations.

(3) Requests for proposals shall specify a date and time for the submission of proposals. Any extension of time granted to one prospective offeror shall be granted uniformly to all.

(4) The initial release of requests for proposals shall be made to all prospective offerors at the same time, and no offeror shall be given the advantage of advance knowledge that proposals are to be requested.

(5) Requests for proposals shall be in writing except in those cases in which the urgency of the procurement is such that there is not sufficient time to prepare a written request. In such cases oral requests are authorized.

2. Section 1-3.807-1 is amended to revise paragraph (b)(2), as follows:

§ 1-3.807-1 General.

(b) * * *

(2) *Established catalog or market prices of commercial items sold in substantial quantities to the general public.* (i) Application of this exception also requires judgment and analysis on a case-by-case basis. In making this judgment, the various elements of the term must be considered, and a price must meet all these conditions in order to be considered for exception. In other words, the price must be, or be based on, (A) an established catalog or market price, (B) of commercial items, (C) sold in substantial quantities, (D) to the general public.

(ii) The following criteria should be applied in determining whether an item falls within the scope of this exception:

(A) An "established catalog price" is a price included in a catalog, price list, schedule, or other form that (1) is regularly maintained by the manufacturer or vendor, (2) is published or otherwise available for inspection by customers, and (3) states prices at which sales are currently or were last made to a significant number of buyers constituting the general public. An "established market price" is a current price established in the usual and ordinary course of trade between buyers and sellers free to bargain which can be substantiated from sources independent of the manufacturer or vendor.

(B) A "commercial item" is an item, which term includes both supplies and services, of a class or kind which (1) is regularly used for other than Government purposes and (2) is sold or traded in the course of conducting normal business operations.

(C) Supplies are "sold in substantial quantities" when the facts or circumstances are sufficient to support a reasonable conclusion that the quantities regularly sold are sufficient to constitute a real commercial market for the item. Nominal quantities, such as models, specimens, samples, and prototype or experimental units, cannot be considered as meeting this requirement. Services are sold in substantial

quantities if they are customarily provided by the contractor, with personnel regularly employed, and with equipment, if any is necessary, regularly maintained, solely or principally for the purpose of providing such services. There must be a sufficient number of commercial buyers so that their purchases establish an ascertainable going price for the service. Substantial quantity cannot be precisely defined.

(D) An item is sold "to the general public" if it is sold to other than affiliates of the seller for end use by other than the Government. Items sold to affiliates of the seller and sales for end use by the Government are not sales to the general public.

(iii) A price may be considered to be "based on" established catalog or market prices of commercial items sold in substantial quantities to the general public if the item being purchased is sufficiently similar to a commercial item to permit the difference between the prices of the items to be identified and justified without resort to cost analysis.

(iv) Even though an item qualifies for exemption from the requirements for submission of certified cost or pricing data, price analysis must be performed to determine the reasonableness of the price and the need for further negotiation. While the additional information required may be available from Government sources, it may be necessary to obtain it from the prospective supplier. The specific information will vary with the procurement involved but may include: (A) The supplier's marketing system; i.e., use of jobbers, brokers, sales agencies, distributors, etc.; (B) the services normally provided to commercial purchasers; e.g., engineering, financing, advertising, or promotion; (C) normal quantity per order; and (D) annual volume of sales to largest customers. Altered terms, minor configuration changes, or quantity differences are all good reasons for pricing items differently from the formal catalog or market prices. The ultimate objective is to achieve fair and reasonable prices for items bought. The Government and contractor personnel must recognize this fact by seeking innovative methods of satisfying the needs clearly but with a minimum of burdensome paperwork.

3. Section 1-3.807-2 is amended to revise paragraph (c)(4), as follows:

§ 1-3.807-2 Requirements for price or cost analysis

(c) * * *

(4) forecasting future trends in costs from historical cost experience is of primary importance, but care must be taken to insure that the effects of past

inefficient or uneconomical practices are not projected into the future. An adequate cost analysis must include an evaluation of trends and their effect on future costs. In cases involving production of recently developed complex equipment, even in periods of relative price stability, trend analysis of basic labor and materials costs should be undertaken.

4. Section 1-3.807-3 is amended to revise paragraphs (a)(1) and (c) and to add paragraphs (j) and (k), as follows:

§ 1-3.807-3 Cost or pricing data.

(a) ***

(1) The award of any negotiated contract (other than a letter contract) expected to exceed \$100,000 in amount; or

* * *

(c) The furnishing and certification or cost or pricing data shall be required prior to the award of any negotiated contract not expected to exceed \$100,000 in amount, or prior to the pricing of any contract modification not expected to exceed \$100,000 in amount to any formally advertised or negotiated contract, whether or not cost or pricing data were required in connection with the initial pricing of the contract: *Provided*, That it is considered that the circumstances war-

rant this action, such as in paragraphs (f) and (g) of this § 1-3.807-3.

* * *

(j) [Reserved].

(k) Negotiated final pricing actions, such as total final price agreements under fixed-price incentive and re-determinable contracts or termination settlement agreements under terminated contracts, are contract modifications for which certified cost or pricing data are required in accordance with paragraph (a)(2) of this § 1-3.807-3. A certificate in accordance with § 1-3.807-4 shall be submitted as soon as practicable after agreement is reached on the amount of the modification. A certificate is required when the amount of the total price agreement or of the final termination settlement agreement exceeds \$100,000.

5. Section 1-3.807-10 is amended to revise paragraph (d), as follows:

§ 1-3.807-10 Subcontracting considerations in cost analysis.

* * *

(d) In considering cost-plus-fee subcontracts while negotiating prime contracts where cost analysis is performed, the contracting officer shall make every effort to ensure, and in consenting to cost-plus-fee subcontracts the contracting officer shall

ensure, that fees under such subcontracts do not exceed the limits prescribed by § 1-3.405-5(c)(2). These limits should not be inserted in the prime contract because insertion of them might tend to inflate fees customarily negotiated at lower rates.

6. Section 1-3.808-1 is revised, as follows:

§ 1-3.808-1 General.

A fair and reasonable provision for profit or fee cannot be made by simply applying a certain predetermined percentage to the cost estimate or selling price of a product. Rather, the profit or fee should be first established as a dollar amount after considering the factors set forth in this § 1-3.808. Therefore, where a fee is involved and it is necessary to determine the percentage relationship between the fee and the estimated cost of the contract in order to comply with statutory limitations on fees for cost-reimbursement-type contracts (see § 1-3.405-5(c)(2)), the percentage shall be determined only after the dollar amount of the fee has been established for negotiation purposes.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

Dated: September 21, 1978.

PAUL E. GOULDING,
Acting Administrator
of General Services.

[FR Doc. 78-28240 Filed 10-5-78; 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.

[1505-01]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN TEXAS

Proposed Container Requirements

Correction

In FR Doc. 78-27219, appearing at page 43721 in the issue for Wednesday, September 27, 1978, in the sixth line from the bottom of the first column, the reference to " * * * paragraph (a)(1)(v) * * *" should have been to "paragraph (a)(1)(iv) * * *."

[3410-02]

[CFR Part 1064]

[Docket No. AO-23-A52]

MILK IN THE GREATER KANSAS CITY MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider changes in the order that have been proposed by dairy farmer cooperatives and a milk distributor. The major proposals would change the shipping requirements for pool supply plants and would permit milk to be diverted from pool supply plants to other plants. Proponents contend that the requested order changes are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

DATE: October 30, 1978.

ADDRESS: Holiday Inn, 1301 Wyandotte Street, Kansas City, Mo. 64105.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION:

Notice is hereby given of a public hearing to be held at the Holiday Inn, 1301 Wyandotte Street, Kansas City, Mo., beginning at 1:30 p.m., local time, on October 30, 1978, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Greater Kansas City marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 1

Amend the pool plant provisions of § 1064.7(b) to provide that a supply plant must ship 50 percent of its receipts of Grade A milk from dairy farmers (including receipts from handlers described in § 1064.9(c), except receipts of milk diverted pursuant to § 1064.13) as fluid milk products (except filled milk) which is physically received at pool distributing plants (excluding fluid milk products transferred from any such distributing plant to the supply plant or to any other supply plant operated by the operator of the supply plant) during each of the months of September through January and 30 percent of such receipts during each of the months of February through August. The percentages specified in this paragraph may be increased or decreased up to 20 percentage points by the market administrator if he finds such revision is necessary to obtain needed shipments or to prevent uneconomical shipments. Before making such a finding the market administrator shall investigate the need for revision either on his own initiative or at the request of interested persons and, if his inves-

tigation shows that a revision might be appropriate, he shall issue a notice stating that revision is being considered and inviting data, views, and arguments with respect to the proposed revision.

PROPOSED BY FAIRMONT FOODS CO.

PROPOSAL NO. 2

Amend § 1064.7(b), *Pool plant*, as follows:

Eliminate the present minimum pooling requirements for supply plants and provide that the market administrator announce on the 5th day of the month the shipping requirement for the following month, such shipping requirement to be about 90 percent of the projected Class I utilization.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

PROPOSAL NO. 3

Amend § 1064.13, *Produced milk*, to permit allowable diversions from both pool distributing plants and pool supply plants.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 4

Amend § 1064.45(d), *Market administrator's reports and announcements concerning classification*, to provide that the report of the amount and class utilization of milk received by each handler shall also include shipments of supply plant milk.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 5

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, U. Grant Grayson, P.O. Box 4606, Overland Park, Kans. 66204; or from the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from dis-

cussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For the particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Greater Kansas City marketing area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on September 29, 1978.

JAMES E. SPRINGFIELD,
*Acting Deputy Administrator,
Marketing Program Operations.*

[FR Doc. 78-28217 Filed 10-5-78; 8:45 am]

[3410-07]

Farmers Home Administration

[7 CFR Part 1924]

[FmHA Instruction 1924-F]

CONSTRUCTION AND REPAIR

Compensation for Construction Defects

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to add a new regulation to implement a public law. The action will authorize FmHA to compensate borrowers for defects resulting from construction financed under the section 502 Rural Housing Program. There have been instances where serious construction defects occurred and were not corrected by the contractor because of bankruptcy or other problems. The borrower had no other recourse except to repair these defects themselves. It is difficult, if not impossible, for the low-to-moderate income borrowers to correct these defects with their own resources. The intended effect of the action is to compensate borrowers for construction defects not due to their fault or neglect.

DATES: Comments must be received on or before November 6, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this

notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Elvon H. Spencer, 202-447-4295.

SUPPLEMENTARY INFORMATION: The FmHA proposes to add Subpart F, "Compensation for Construction Defects" to Part 1924, Subchapter J, Chapter XVII, Title 7 in the Code of Federal Regulations. This proposal contributes to the implementation of Pub. L. 95-128 by providing for compensation to borrowers in the form of cash payments, conveyance by the borrower back to the Government in satisfaction of the indebtedness, or repair at the Government's expense. The regulation will apply only to section 502 Rural Housing loans. The compensation aspects of this regulation are contingent on funds being made available in appropriation acts (42 U.S.C. 1487(j)(6)); as of this date, no funds are available. Due to the need to implement these regulations as soon as possible we are publishing this subpart with a 30-day comment period.

As proposed Subpart F reads as follows:

PART 1924—CONSTRUCTION AND REPAIR

Subpart F—Compensation for Construction Defects

Sec.

- 1924.251 General.
- 1924.252 Definitions.
- 1924.253 Eligibility.
- 1924.254 Purpose for which claims may be approved.
- 1924.255 [Reserved]
- 1924.256 Processing applications.
- 1924.257 Approval disapproval.
- 1924.258 Final inspection.
- 1924.259 Action against contractor.
- 1924.260 [Reserved]
- 1924.261 Conveyance of mortgaged property.
- 1924.262 Notification of borrowers.
- 1924.263—1924.300 [Reserved]

AUTHORITY: 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart F—Compensation for Construction Defects

§ 1924.251 General.

This Subpart contains policies and procedures for compensating borrowers for structural defects under section 509(c) of the Housing Act of 1949. Provisions of this subpart apply only to owner's of newly constructed dwellings financed with an insured section 502 Rural Housing (RH) loan. It does not

apply to dwellings financed through the guaranteed section 502 program.

§ 1924.252 Definitions.

(a) *Newly constructed dwelling.* A Newly Constructed Dwelling is one which is not more than 1 year old, not previously occupied as a residence, and was built under an FmHA conditional commitment or section 502 construction loan.

(b) *Structural Defect.* A Structural Defect is a defect in the dwelling including the siting and grading directly affecting the dwelling, or a related facility, which directly and significantly reduces the useful life, the habitability, or the integrity of the dwelling. The defect may be due to faulty material, poor workmanship, or latent causes that existed when dwelling was constructed. The term includes but is not limited to:

(1) Structural failures which directly and significantly affect the basic integrity of the dwelling such as in the foundation, footings, slabs, floors, framing walls, or roof.

(2) Major deficiencies in the structural components of the building such as faulty wiring, or failure of sewage disposal or water supply systems located on the property securing the loan.

(3) Serious defects in installation of heating systems, central air conditioners, water heaters, or water pumps.

§ 1924.253 Eligibility.

To be eligible for assistance under this subpart, all of the following must exist:

(a) The claim must be one for repairs to, or compensation for, damages arising from major structural defects to a newly constructed dwelling financed with a section 502 RH loan or one to have the Government acquire the property because of such defects.

(b) The dwelling must be both newly constructed and financed with a section 502 RH loan closed on or after April 12, 1976.

(c) The claim must be filed with the local Farmers Home Administration (FmHA) County Office within 18 months after the loan is closed except for claims involving loans closed on or between April 12, 1976, and October 12, 1977, which may be filed through April 12, 1979.

(d) The claim must be submitted by the FmHA borrower who is also the current owner of the newly constructed dwelling. The claimant need not be the original owner of the newly constructed dwelling. However, the date of closing of the initial loan establishes the eligibility date for filing a claim under this section.

(e) The obligation of the contractor or builder to correct the defect(s) (under a builders warrant) must have expired or the contractor or builder is

liable to make corrections under the builder's warranty, but is unable or unwilling to do the work. The claimant, when applicable, must provide evidence that the contractor has been contacted and the reasons, if known, why the contractor will not correct the defect(s).

(f) The construction must have been completed under a FmHA approved contract or a conditional commitment, except that a dwelling built by borrower or self-help method of construction is also eligible if the defect is the result of poor workmanship performed or materials supplied and installed by a subcontractor; or the defect is the result of soil movement caused by other than improper compaction or other negligence on the part of the claimant; or the defect occurs in the home equipment described in § 1924.252.

§ 1924.254 Purposes for which claims may be approved.

(a) *Eligible purposes.* A claim may be approved to:

(1) Compensate for costs to repair major structural defects, including costs approved by FmHA for professional reports by engineers, architects or others needed to determine causes of or means of repairing the defect.

(2) Compensate the owner for funds expended for emergency repairs, or repairs made in accordance with plans and specifications after approval by FmHA. Emergency repairs are those repairs necessary to preserve the integrity of the structure, to prevent damage or further damage to personal property or fixtures in the dwelling and related facilities, or to prevent or eliminate immediate health hazards. Receipts or other evidence of owner's expenditures must be provided.

(3) Acquire title to the property and, when appropriate, compensate claimant for any loss of borrower contribution at the time the loan was closed. A borrower contribution may be such thing as:

(i) A borrower's land or cash contribution,

(ii) Development work done by the borrower, the cost of which was not included in the loan funds.

(iii) Attorney fees, abstract costs or title insurance costs actually paid by the claimant in connection with closing the loan.

Compensation allowed for the land or development work will be the value established by the appraisal on which the loan was based or present market value, whichever is less.

(4) Compensate the claimant for damages, which are a direct result of the defect to permanent additions, remodeling, upgrading, etc., of the dwelling or related facilities. Reimbursement under this paragraph will be

based on actual cost of the development, or the replacement cost of the improvement, whichever is less. If the actual cost method is used, the borrower must provide evidence to reasonably establish the development cost.

(5) Compensate the claimant for temporary living expenses, miscellaneous expenses, storage of household goods and moving expenses incurred as a result of the defect.

(i) Payment under this paragraph may be made under either of the following circumstances:

(A) The property is acquired by the Government because FmHA determines that the dwelling is not habitable and the severity of the defects prevents the property from being repaired and made suitable as a permanent residence for the borrower. Payment of expenses covered by this paragraph is not authorized in cases where the Government accepts conveyance of the property as a convenience to the borrower and the dwelling is or can feasibly be made suitable as a permanent residence.

(B) The property is not acquired by the Government but FmHA determines that the dwelling is not habitable or must be vacated to repair the defects.

(ii) Claims for compensation are limited as follows:

(A) Compensation may be granted for temporary living expenses for not more than 45 calendar days per claim. Compensation will be paid for actual cost to the claimant not to exceed \$40 per day. Reimbursement may be claimed for expenses such as food, lodging, cleaning, etc., which would not have been incurred had the claimant remained in the house.

(B) Compensation may be granted for actual miscellaneous expenses not to exceed \$200 to cover such items as utility connect and disconnect fees.

(C) Compensation may be granted for moving and storage expenses not to exceed \$2,500 unless authorized by the State Director and not to exceed the actual cost of moving the claimant household with personal belongings, a distance of not more than 50 miles from the original residence. Compensation for storage expenses may not exceed that amount paid to store household furnishings for 45 days.

(6) Compensate the claimant for reasonable interest paid on loans obtained for the sole purpose of correcting structural defects or other approved purposes under this Subpart.

(b) *Ineligible purposes.* Compensation will not be granted for:

(1) Damages resulting from alterations in construction not approved by FmHA, or additions or remodeling of dwellings and related facilities not financed by FmHA.

(2) The loss of past, present, or future wages or salary directly or indirectly resulting from the defect.

(3) Treatment for physical or psychological damages including medical and dental claims.

(4) Death benefits or funeral expenses.

(5) Damages encountered as a result of war, flood, tornado, lightning, earthquake or other acts of nature which the structure was not designed to withstand.

(6) Damages resulting from the homeowner's negligence or failure to properly maintain the property.

(7) Correction of defects such as a damp basement or malfunctioning septic system unless the defect is so serious that the Board of Health condemns the property, or the affected part of the dwelling cannot continue to be used for its intended purpose.

(8) Damage to personal property.

§ 1924.255 [Reserved]

§ 1924.256 Processing applications.

(a) An application for financial assistance under Section 509(c) of the Housing Act of 1949 as amended shall be submitted by the claimant to the County Supervisor on Form FmHA 424-4 "Request for Compensation for Construction Defects." The application form shall be completed in its entirety. All structural defects and claims for which compensation is sought will be listed. If necessary, the County Supervisor may assist the claimant in preparing and submitting the application.

(b) The County Supervisor will review applications for financial assistance to determine if the applicant and claim appear to meet the eligibility requirements as detailed in § 1924.253.

(c) If the claim is not eligible for compensation, the County Supervisor will notify the claimant in writing of the specific reasons for lack of eligibility and of appeal rights in accordance with Subpart B of Part 1900 of this chapter.

(d) The County Supervisor will process claims that appear to be eligible for compensation as follows:

(1) If the builder's warranty appears to cover the defect and the contractor has not been notified in writing about the defect, the County Supervisor will advise the borrower of the provisions of the builder's warranty and, if needed and if requested by the borrower, assist in completing appropriate notice to the contractor with the request that the defect be corrected within 30 days.

(2) If the builder's warranty covers the defect and the contractor has received written notice and is unable or unwilling to make repairs in accordance with the provisions of the build-

er's warranty, the County Supervisor will notify the contractor in writing that the Government is considering compensating the borrower and the contractor may be liable for costs paid by the Government. Further actions against the contractor will be in accordance with Subpart E, Part 1924, of this chapter.

(e) If the defect is not covered by a builder's warranty or the contractor does not appear to be liable, or the contractor has failed to perform after proper notification under the warranty or the County Supervisor has evidence that the contractor is unable or unwilling to make the repairs, the following action will be taken:

(1) A copy of the claim will be sent to the District Director.

(2) The County Supervisor will be responsible for having an onsite inspection made by a qualified FmHA employee within 30 days of receipt of the claim. The inspector should not indicate to the claimant whether or how much financial assistance might be given. If eligibility of the defect or the proper method of making repairs is not clear, the State architect should be consulted. A narrative inspection report will be prepared and include at least the following information:

(i) A description of the defect and a statement as to whether the defect is a structural defect as defined in § 1924.252(b).

(ii) The cause or probable cause of the defect.

(iii) A list of any other damages to the structure and related facilities.

(iv) A description of the work necessary to correct the defect and an estimate of the repair cost, or a recommendation as to whether it is feasible to repair the property.

(f) After the inspection and report have been completed, the County Supervisor will send the claim file to the District Director who will inform the claimant by letter that:

(1) An inspection has been completed and a copy of the report is attached. Furthermore, a determination has been made as to which defects:

(i) Are the responsibility of the contractor, or equipment manufacturer.

(ii) Are not eligible for assistance under this subpart.

(iii) May be eligible for assistance under this regulation.

(2) The claimant must indicate in writing whether there is a desire to repair the eligible defects or convey the property to the Government in satisfaction of the indebtedness on the rural housing loan(s) to the Agency with the Government paying for borrower investment in the property as authorized in § 1924.254. The option to convey to the Government is available to the claimant only if the estimated cost of correcting the defect, as deter-

mined by FmHA, exceeds \$2,000 or if FmHA determines that after the proposed corrections are made the dwelling would not be suitable for the borrower considering the borrower's needs and circumstances. Should the decision be to repair, the claimant must provide plans, specifications, and cost estimates for planned repairs.

(3) The claim, if approved, will be subject to the availability of funds.

§ 1924.257 Approval—Disapproval.

(a) The District Director may approve or disapprove claims up to \$2,000. All other claims will be approved or disapproved by the State Director. The approval official must in writing, inform the claimant of the decision within 30 days after the claim is received by that official. In no case will the County Supervisor or the District Director hold a claim docket for more than 30 days unless they inform the claimant of the reason(s) why it is being delayed. If the claim or any part of the claim is denied at any level, the claimant will be informed in writing of the reason(s) for the denial and advised of appeal rights in accordance with Subpart B of Part 1900 of this chapter.

(b) The assembled claim docket to be submitted to the District Director in accordance with § 1924.256 (f) will contain all of the following completed forms and documents as well as other information bearing upon the validity of the claim.

(1) Form FmHA 424-4 completed and signed by claimant.

(2) Report of inspection completed and signed by the FmHA employee who made the inspection.

(3) Plans, specifications, and cost estimates.

(4) The County Supervisor's comments and recommendations.

(c) Claims will be approved subject to availability of funds. The approving official will enter the amount for which the claim is approved and sign the original Form FmHA 424-4. Two copies will be mailed to the State Office, one copy to the borrower, and the original will remain in the borrower's case file. When the State Office allocates funds for the claim, two copies of Form FmHA 424-4 will be stamped "funded" and returned to the County Supervisor. The County Supervisor, when ordering the check, will send one copy with the "funded" stamp to the Finance Office. The Finance Office will send the check to the county office on the basis of this form. It will not be necessary to use Standard Form 1034. The check will be made payable to the claimant and may be, as appropriate, released to the claimant to reimburse claimant for approved costs incurred by applicant, endorsed by the claimant to be applied

on an account, or deposited in a supervised bank account.

§ 1924.258 Final inspection.

All repair work will be performed in accordance with FmHA Instruction 424.1. In all cases, a final inspection of the repair work performed will be made before final payment is made for the work. If practical, the inspection will be made by the same employee who made the initial inspection to determine eligibility. Interim inspections may be made to insure that minimum property standards are met. The inspection report for the final inspection will be signed by both borrower and inspector.

§ 1924.259 Action against contractor.

Compensation by the Government will not be approved until after reasonable efforts to obtain corrective actions by the contractor have failed. However, if it becomes necessary for FmHA to pay for correction of construction defects in a dwelling which are the responsibility of the contractor, debarment proceedings will be initiated against the contractor in accordance with subpart C of part 1918 of this chapter. An assignment of the borrower's claim against the contractor or other party may be obtained if it appears to the approval officials, with any necessary advice from OGC, that recovery is reasonably possible.

§ 1924.260 [Reserved]

§ 1924.261 Conveyance of mortgaged property.

If a borrower, eligible under this subpart, requests, because of a structural defect, that the FmHA debt be canceled, the borrower will be requested to convey the mortgaged security to the Government if FmHA approves the borrower's request. The conveyance will be handled in accordance with applicable provisions of part 1955, subpart A.

§ 1924.262 Notification of borrowers.

Each borrower potentially eligible for compensation will be notified in writing by the County Supervisor within 30 days of the receipt of this subpart of the borrower's rights under this subpart. The County Supervisor will also give the notification to loan applicants at or before loan closing, and to borrowers at any time construction defects are apparent and favorable results cannot be obtained from the contractor. Exhibit A of this subpart may be used as a guide in preparing the notification letter to be sent to potentially eligible borrowers.

§ 1924.263-1924.300 [Reserved]

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23;

delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 270.)

Dated: October 2, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

EXHIBIT A

DEAR _____,

Recent legislation has enabled Farmers Home Administration (FmHA) to provide financial assistance to correct major structural deficiencies in new dwellings financed on or after April 12, 1976.

The assistance may be granted to correct deficiencies in the major structural components of single family houses not corrected under the builder's warranty.

A major structural defect is considered to be a defect(s) which significantly reduces the useful life or habitability of the dwelling or unit or threatens its integrity. The defect may be due to faulty material, poor workmanship, or latent unpredictable causes.

If you have such a defect in your house, you should contact our office at _____. You will be provided with additional information as well as the necessary forms for filing a claim. Any claim submitted for loans closed on or between April 12, 1976 and October 11, 1977, must be received in the County Office by April 12, 1979. For loans closed after October 12, 1977, the claim must be received no later than 18 months after the date of loan closing.

Sincerely,

County Supervisor.

[FR Doc. 78-28241 Filed 10-5-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 72]

STORAGE OF SPENT FUEL IN AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION (ISFSI)

Proposed Licensing Requirements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The proposed new regulation specifies procedures and requirements for issuance of licenses to store spent fuel in an independent spent fuel storage installation (ISFSI). In addition to general provisions, the proposed regulation contains requirements for the siting, general design criteria and certain operational aspects of such an activity.

DATE: Comment period expires January 4, 1979.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments on

the proposed new regulation may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

The Commission is particularly interested in comments on Subpart E, "Siting Criteria" and Subpart F, "General Design Criteria."

FOR FURTHER INFORMATION CONTACT:

Russell E. L. Stanford, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-443-5910.

SUPPLEMENTARY INFORMATION:

The present policy of the United States is to store commercial reactor spent fuel without reprocessing pending a decision to reprocess it or to dispose of it directly as high level waste. As a result of this policy, spent fuel is accumulating in storage basins throughout the U.S. The Nuclear Regulatory Commission has evaluated the environmental impacts of the accumulation of spent fuel and recently published a draft Generic Environmental Impact Statement (GEIS) on this subject. The GEIS concludes that there is a need for independent spent fuel storage installations (ISFSI), or as these are sometimes called, away-from-reactor (AFR) storage installations, to accommodate some of the accumulating spent fuel. The GEIS also recognizes the need for a more definitive regulatory basis for future licensing of facilities of this type. The GEIS identifies the development of 10 CFR Part 72, as coming to meet the need.

The Nuclear Regulatory Commission has under consideration this new regulation covering the requirements for extended spent fuel storage at installations built specifically for this purpose that are not coupled to either a nuclear power plant or a fuel reprocessing plant.

The present regulations covering the possession of source, byproduct and special nuclear materials are largely designed for relatively short-term possession in conjunction with operations involving such materials. The Nuclear Regulatory Commission recognizes that there is a need for a new regulation covering the requirements for extended spent fuel storage under static storage conditions involving no operations on such materials. The proposed new regulation specifies procedures and requirements for the issuance of licenses to store spent fuel in

NUREG-0404 Draft Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Reactor Fuel—March 1978. Copies may be obtained from the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

an independent spent fuel storage installation. To ensure adequate protection of the public health and safety, the proposed regulation establishes siting, design, operation and records requirements for away-from-reactor spent fuel storage. Specific features of licensing under Part 72 are:

1. Single license—Part 72 provides for issuance of a single license as early as practical in the licensing process—before the start of construction of any physical facilities involved. This license would contain a provision that it be reevaluated by NRC and its "license conditions" be updated prior to the receipt of spent fuel at an ISFSI.

2. Safety analysis report—A single safety analysis report will be submitted with the license application. This will be updated as the project progresses and changes submitted to the NRC, with any final changes submitted at least 90 days prior to the receipt of spent fuel at an ISFSI.

3. Licenses covering the storage of spent fuel in an ISFSI will not be issued by Agreement States because of the significant quantities of special nuclear materials involved. Agreement States are prohibited by section 274b(3) of the act from licensing special nuclear material in quantities sufficient to form a critical mass.

4. Such licenses are limited to the temporary storage only of spent fuel; no license under this part will be granted for the later permanent storage or disposal of spent fuel.

An opportunity for public hearings will be provided before issuing a license for an ISFSI. Appropriate amendments to the regulations to include ISFSIs in the public hearing procedures will be issued for public review and comment.

Underwater storage of spent fuel has been standard practice in the nuclear industry for more than 30 years. The basic technology involved is well established and readily lends itself to the contemplated extended storage of spent fuels under water for periods of more than 10 years.

However, the storage of spent fuels in an ISFSI is not limited to underwater storage. Although many of its specific requirements apply to water pool installations, the storage of aged spent fuel under dry storage conditions is also covered by this regulation. The storage of spent fuels under water is only necessary for those fuels which have not undergone sufficient aging since their discharge from a reactor to make cooling by some other means feasible.

The proposed rule is applicable only to "aged" fuel, with more than one year's decay since reactor shutdown. Aged spent fuel, having lost the short-lived radionuclides by decay, need not have a high degree of protection from

weather extremes, tornadoes, or tornado-generated missiles.

The large inventory of radionuclides in an ISFSI represents a potential hazard to public health and safety. Storage conditions must provide an environment which will insure the long-term integrity on the fuel cladding as the primary containment for the radioactive materials contained in spent fuel. For underwater storage, the pool water is also an effective medium for the containment of the small amounts of radioactive materials, primarily cesium, that may escape from defective fuel.

To assure the long-term integrity of the stored spent fuel, the storage racks and other important components of an ISFSI, there must be provisions for periodic inspection and surveillance of critical components.

The rationale underlying the siting requirements is that although the potential risk is small due to the relatively inert nature of aged spent fuel, sound sites should be selected for such installations. An ISFSI could be located on the site of another license facility or a separate site. The population distributions at licensed reactor sites would be acceptable for the location of ISFSI.

The Commission is considering whether a new seismic siting approach for an ISFSI should be adopted which recognizes that the simple static nature of an ISFSI makes seismic risk less serious than it is for a reactor. The Commission also recognizes from experience that substantial resources can be expended in investigation work to establish site-specific seismic design values and further resources on debate of the exact values and review of different viewpoints to meet these site-specific values. By including requirements in the proposed regulations which limit the location of an ISFSI to sites with an earthquake ground motion potential of no more than 0.25g (with a recurrence interval of 500 years)² and which specify that all ISFSI's shall be designed to withstand a 0.25g acceleration, the integrity of the ISFSI can be assured without the need for costly seismic site investigations, analyses and review unless some unusual geologic characteristic is identified. The limiting earthquake ground motion potential of 0.25 g with a recurrence interval up to 500 years is not considered unduly restrictive. It rules out sites of high seismic potential as being generally unsuitable. However, if special circumstances and special design treatment are shown, exemption from this site restriction is possible.

The imposition of this site restriction does raise the possibility that a small amount of additional transportation of spent fuel might be necessary to reach an acceptable ISFSI site from a few reactors in the U.S. Based on previous evaluations of the impact of transporting spent fuel,^{3,4} the savings achieved by the site restriction are justified.

For underwater storage, the pool structure and the spent fuel storage racks within the pool must be designed and constructed to resist potential seismic forces to insure sub-critical geometry at all times.

Spent fuel in storage under water requires a cooling system for the removal of decay heat. However, the heat capacity of the large volume of water in a spent fuel storage pool allows adequate time to take corrective action if the cooling system fails, provided there is an assured source of makeup water and some means of getting it to the storage pool, if needed. Therefore, the cooling system need not be designed to withstand the extremes of natural phenomena. Likewise, the emergency water supply system need not be permanently installed, provided it is available within the time span needed.

The activity level of the pool water must be kept within control and equipment such as the pool water cleanup system and the waste treatment system must be designed to meet ALARA objectives for operating personnel.

Experience has shown that the level of radioactive materials in the ambient air in the spent fuel storage area of an ISFSI is normally about 5 percent of 10 CFR 20 limits for occupied areas. However, there is a potential for the release of radioactive materials in the venting of shipping casks before these are unloaded, hence cask unloading must be handled under controlled conditions.

The proposed Part 72 includes an operational dose limit to any member of the general public of 25 mrem per year from the uranium fuel cycle in accordance with the regulations of the Environmental Protection Agency (40 CFR Part 190). The EPA regulations were prepared with a reprocessing fuel cycle in mind, but the Commission considers it reasonable to apply them to the ISFSI since the storage of fresh spent fuel at reactors and reprocessing plants was already envisioned and the storage of aged spent fuel at an ISFSI entails much lower potential releases.

Part 72 also sets a limit of 5 Rem in 2 hours for the calculated dose to individuals off the ISFSI site from design basis accidents. With such a limit, an ISFSI, if located on a reactor site, will not add substantially to the risk to the public off site. Accident analyses for an ISFSI presented in the GEIS and in previous licensing cases show that this limit is reasonably achievable.

With spent fuel committed to storage for an indefinite period of time, and its ultimate disposition unknown, there is a need for the maintenance of adequate records of the identify and history of the spent fuel in storage.

It is the Commission's judgment that an NRC review of the licensee's training program and a certification by the licensee that his operators are adequately trained are adequate. The provisions of Section 107 of the Atomic Energy Act, as amended, which provide for licensing of operators, do not apply to ISFSI personnel.

Although the proposed regulation does not contain specific requirements relating to financial protection and responsibility for public liability, the Commission is considering the question of whether it should exercise its discretionary authority under the Price-Anderson Act to prescribe such requirements and would be interested in any comments or views which might be offered on this issue. The question is also undergoing review in the context of a broad study by the NRC staff of whether, and if so in what manner, the Commission should exercise its discretionary authority to impose financial protection requirements on its materials licensees.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following new regulation 10 CFR Part 72 is contemplated.

A new Part 72 is added which reads as follows:

PART 72 "LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL IN AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION" (ISFSI)

Subpart A—General Provisions

Sec.

- 72.1 Purpose.
- 72.2 Scope.
- 72.3 Definitions.
- 72.4 Communications.
- 72.5 Interpretations.
- 72.6 License Required.
- 72.7 General License to Own Spent Fuel.
- 72.8 Specific Exemptions.
- 72.9 Denial of Licensing by Agreement States.

Subpart B—License Application, Form, Contents

- 72.11 Filing of Applications for Licenses; Oath or Affirmation.
- 72.12 Elimination of Repetition.
- 72.13 Public Inspection of Applications.
- 72.14 Contents of Application: General and Financial Information.

²As demonstrated by authorities such as Algermissen and Perkins, USGS, Open File Report 76-416, 1976. "A Probabilistic Estimate of Maximum Acceleration in Rock in the Contiguous United States."

³WASH-1238, "Environmental Survey of Transportation of Radioactive Materials to and From Nuclear Power Plants."

⁴NUREG-0170, "Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes."

Sec.

- 72.15 Contents of Application: Technical Information.
- 72.16 Contents of Application: License Conditions.
- 72.17 Contents of Application: Technical Qualifications.
- 72.18 Decommissioning Plan, Including its Financing.
- 72.19 Emergency Plan.
- 72.20 Environmental Report.

Subpart C—Issuance and Conditions of Licenses

- 72.31 Issuance of Licenses.
- 72.32 Duration of Licenses; Renewal.
- 72.33 License Conditions.
- 72.34 Changes, Tests, and Experiments.

TRANSFERS OF LICENSES—CREDITORS' RIGHTS—SURRENDER OF LICENSES

- 72.36 Transfer of Licenses.
- 72.37 Creditor Regulations.
- 72.38 Applications for Termination of Licenses.

AMENDMENT TO LICENSE AT REQUEST OF HOLDER AND REVOCATION, SUSPENSION, AND MODIFICATION OF LICENSES

- 72.39 Application for Amendment of License.
- 72.40 Issuance of Amendment.
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- 72.42 Backfitting.

Subpart D—Records, Reports, Inspections, and Enforcement

- 72.51 Material Balance, Inventory and Records Requirements for Stored Materials.
- 72.52 Reports of Accidental Criticality or Loss of Special Nuclear Material.
- 72.53 Material Status Reports.
- 72.54 Nuclear Material Transfer Reports.
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Subpart E—Siting Criteria

- 72.61 General Criteria.
- 72.62 Criteria for Design Basis External Natural Events.
- 72.63 Criteria for Design Basis External Man-Induced Events.
- 72.64 Criteria for Defining Potential Effects of the ISFSI on the Region.
- 72.65 Criteria for Regional Distribution of Population.
- 72.66 Criteria for Defining Acceptable Seismic Design.
- 72.67 Criteria for Defining Potential Radiological Consequences.

Subpart F—General Design Criteria

- 72.71 General Design Criteria.

OVERALL REQUIREMENTS

NUCLEAR CRITICALITY SAFETY

RADIOLOGICAL PROTECTION

SPENT FUEL AND RADIOACTIVE WASTE STORAGE AND HANDLING

DECOMMISSIONING

Subpart G—Quality Assurance

- 72.75 Quality Assurance Program; Records.

Subpart H—Plant Protection

- 72.81 Physical Security Plan.

Subpart I—Training and Certification of ISFSI Personnel

Sec.

- 72.91 Scope of Training Program.
- 72.92 Responsibility for Training Program.
- 72.93 Physical Requirements.
- 72.94 Submission for Approval.

AUTHORITY: Atomic Energy Act of 1954, as amended, secs. 51, 53, as amended, 62, 63, 65, 81, 161 b, h, i, o, 182a as amended, 183 as amended, 184 as amended, 186, 187, Pub. L. 83-703, 68 Stat. 929, 930 as amended by 71 Stat. 576, 72 Stat. 632 and 79 Stat. 602, 932, 933, 935, 948, 953 as amended by 70 Stat. 1069, 954 as amended by 78 Stat. 602, 955, (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201 (b), (h), (i), (o), 2232, 2233, 2234, 2236, 2237); sec. 234, Pub. L. 91-161, 83 Stat. 444, 42 U.S.C. 2282; sec. 274c, Pub. L. 86-273, 73 Stat. 688, (42 U.S.C. 2021(c)); under sec. 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, 83 Stat. 853, (42 U.S.C. 4332), and under the Energy Reorganization Act of 1974, as amended, sec. 201, as amended, 202, and 206, Pub. L. 93-438, 88 Stat. 1242, as amended by 89 Stat. 413, 1243, 1246 (42 U.S.C. 5841, 5842, 5846).

Subpart A—General Provisions

§ 72.1

§ 72.1 Purpose.

The regulations in this part establish requirements, procedures and criteria for the issuance of licenses to receive title to, own, acquire, receive, or possess special nuclear material, byproduct material, and source material in spent fuel for the purpose of storage in the United States in an independent spent fuel storage installation (ISFSI) as defined in § 72.3 and establish and provide for the terms and conditions under which the Commission will issue such licenses. Such licenses are limited to the temporary storage only of spent fuel; no license under this part will be granted for the later permanent storage or disposal of spent fuel.

§ 72.2 Scope.

The regulations in this part apply to all persons in the United States, including persons in Agreement States. The regulations in this part are limited to spent fuel. This includes the byproduct, special nuclear and source materials in the spent fuel to be stored or in storage in an independent spent fuel storage installation as defined by § 72.3. With respect to licenses covering the storage of spent fuel in an ISFSI issued prior to the effective date of this regulation, such licenses will not be renewed unless the operating requirements of this Part 72 are met.

§ 72.3 Definitions.

As used in this part:

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

(b) "As low as is reasonably achievable" means as low as is reasonably

achievable taking into account the state of technology, and the economics of improvements in relation to benefits to the public health and safety.

(c) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(d) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(e) "Commencement of construction" means any clearing of land, excavation or other substantial action that would adversely affect the natural environment of a site, but does not mean:

(1) Changes desirable for the temporary use of the land for public recreational uses, necessary borings or excavations to determine subsurface materials and foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental values;

(2) Construction of environmental monitoring facilities;

(3) Procurement or manufacture of components of the installation.

(f) "Confinement system" means those systems, including ventilation, between areas containing radioactive substances and the environment.

(g) "Controlled area" means that area immediately surrounding the ISFSI complex, the use of which is controlled by the licensee.

(h) "Design basis" means the parameter values associated with that level of severity of an external event or combination of events selected for design of all or part of an ISFSI to insure that the structures, systems, and components important to safety (in relation to that event or combination of events) will maintain their integrity and will not suffer loss of function during or after the event or before completing its design function. These values may be (1) restraints derived from generally accepted "state-of-the-art" practices for achieving functional goals, or (2) requirements derived from analysis (based on calculation and/or experiments) of the effects of a postulated event under which a structure, system, or component must meet its functional goals.

(i) "Historical data" means a compilation of the available information concerning a particular type of event derived from human history.

(j) "Independent spent fuel storage installation (ISFSI)" means a self-contained installation designed for the storage of spent fuel and capable of independent operation with all necessary supporting services.

(k) "Neighboring area" means that area immediately surrounding the controlled area in which population distribution and density and land and water uses are considered with respect to the possibility of implementing contingency measures.

(l) "NEPA" means the National Environmental Policy Act of 1969 including any amendments thereto.

(m) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Department of Energy (DOE), except that the DOE shall be considered a person within the meaning of the regulations of this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation, or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(n) "Region" means a geographical area surrounding and including the site sufficiently large to contain all the features related to a phenomenon or to the effect from a particular event.

(o) "Site" means the real property on which the ISFSI is located. The site includes the controlled area.

(p) "Source material" means (1) uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores which contain by weight one-twentieth of 1 percent (0.05%) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Source material does not include special nuclear material.

(q) "Special nuclear material" means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing but does not include source material.

(r) "Spent fuel" suitable for storage in an ISFSI means irradiated light water reactor nuclear power plant fuel which has undergone at least one year's decay since reactor shutdown.

(s) "Structures, systems and components important to safety" means those items whose function is to (1) maintain the required spent fuel storage conditions, (2) prevent damage to the spent fuel during transfer and storage, (3) protect plant personnel

from exposure to radiation in excess of design objectives.

§ 72.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be addressed to:

The Nuclear Regulatory Commission, Division of Fuel Cycle and Material Safety, Washington, D.C. 20555

Communications, reports, and applications may be delivered in person at the Commission's Offices at:

7915 Eastern Avenue, Silver Spring, Md., or 1717 H Street NW., Washington, D.C.

§ 72.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 72.6 License required.

(a) No person may receive title to, own, acquire, receive, or possess special nuclear material, byproduct material, or source material in spent fuel for the purpose of storage in an independent spent fuel storage installation except as authorized by the general license in § 72.7, or as authorized in a specific license issued by the Commission in accordance with the regulations in this part.

(b) Licenses for special nuclear material are of two types: General and specific. Any general license provided in this part is effective without the filing of applications with the Commission or the issuance of licensing documents to particular persons. Specific licenses are issued to named persons upon applications filed pursuant to the regulations in this part.

§ 72.7 General license to own spent fuel.

A general license is hereby issued to receive title to and own source material, special nuclear material and byproduct material contained in spent fuel without regard to quantity. Regardless of any other provision of this chapter, a general licensee under this section is not authorized to acquire, deliver, receive, or possess source material, special nuclear material and byproduct material contained in spent fuel, except as authorized in a specific license.

§ 72.8 Specific exemptions.

The Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it deter-

mines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

§ 72.9 Denial of licensing by agreement states.

Licenses covering the storage of spent fuel in an ISFSI will not be issued by Agreement States.

Subpart B—License Application, Form, Contents

§ 72.11 Filing of applications for licenses; oath or affirmation.

(a) *Place of filing.* Each application for a license under this part, or amendment thereof, should be filed with:

The Director, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Applications, communications, reports, and correspondence may be delivered in person at the Commission's offices at 7915 Eastern Avenue, Silver Spring, Md., or 1717 H Street NW., Washington, D.C.

(b) *Oath or affirmation.* Each application for a license or license amendment, including amendments to such applications, should be executed in three signed originals by the applicant or duly authorized officer thereof under oath or affirmation.

(c) *Number of copies of applications.* Each filing of an application for a license or license amendment under this part (including amendments to such applications) shall include in addition to three signed originals the required documents listed in Table I in the number of copies specified.

(d) *Fees.* The application, amendment and inspection fees applicable to a license covering the storage of spent fuels in an ISFSI are those shown in § 170.31 of this chapter.

§ 72.12 Elimination of repetition.

In any application, under this part, the applicant may incorporate by reference information contained in previous applications, statements or reports filed with the Commission: *Provided*, That such references are clear and specific.

§ 72.13 Public inspection of applications.

Applications and documents submitted to the Commission in connection with applications may be made available for public inspection in accordance with provisions of the regulations contained in Part 2 and Part 9 of this chapter.

CONTENTS OF APPLICATION

§ 72.14 Contents of application: General and financial information.

Each application shall state;
(a) Full name of applicant;

- (b) Address of applicant;
 (c) Description of business or occupation of applicant;
 (d) (1) If applicant is an individual, state citizenship and age.

TABLE I.—Required licensing documents

Section	Document	No. of copies
72.11	License application	¹ 25
72.15	Safety analysis report	70
72.19	Emergency plan	25
72.20	Environmental report	150
72.34	Report of installation and procedures changes	¹ 12
72.36	Application for transfer of license	¹ 25
72.38	Application for termination of license	¹ 25
72.39	Amendment to license	¹ 25
72.75	Quality assurance program	25
72.81(a)	Physical security plan	10
72.81(c)	Safeguards contingency plan	10
72.94	Personnel training program	10

¹Plus 3 signed originals.

²Plus 1 signed original.

³Physical protection plans should be held exempt from public disclosure pursuant to 10 CFR 2.790(d).

(2) If applicant is a partnership, state name, citizenship and address of each partner and the principal location where the partnership does business.

(3) If applicant is a corporation or an unincorporated association, state:

(i) The State, where it is incorporated or organized and the principal location where it does business;

(ii) The names, addresses and citizenship of its directors and principal officers.

(4) If the applicant is acting as an agent or representative of another person in filing the application, identify the principal and furnish information required under this paragraph with respect to such principal.

(e) Information sufficient to demonstrate to the Commission the financial qualifications of the applicant to carry out, in accordance with the regulations in this chapter, the activities for which the license is sought. This information shall state the place at which the activity is to be performed, the general plan for carrying out the activity and the period of time for which the license is requested. The information shall show that the applicant either possesses the necessary funds or that the applicant has reasonable assurance of obtaining the necessary funds, or that by a combination of the two, the applicant will have the necessary funds available to cover the following:

(1) Estimated construction costs.
 (2) Estimated operating costs over the planned life of the installation.

(3) Estimated shutdown and decommissioning costs and the necessary financial arrangements prior to licensing that will insure shutdown, decon-

tamination and decommissioning will be carried out.

§ 72.15 Contents of application: Technical information.

Each application for a license under this part shall include: (a) Safety Analysis Report describing the proposed installation (ISFSI) for the storage of spent fuel, including how the ISFSI will be operated. The minimum information to be included in this report shall consist of the following:

(1) A description and safety assessment of the site on which the ISFSI is to be located, with appropriate attention to features affecting installation design. Such assessment shall contain an analysis and evaluation of the major structures, systems and components of the ISFSI which bear on the suitability of the site assuming that the installation will be operated at the ultimate capacity¹ which is contemplated by the applicant.

(2) A description and discussion of the ISFSI structures with special attention to design and operating characteristics, unusual or novel design features, and principal safety considerations.

(3) The preliminary design of the installation including:

(i) The principal design criteria for the installation pursuant to subpart F of this part, with any additions to or departures from the general design criteria identified and justified.

(ii) The design bases and the relation of the design bases to the principal design criteria;

(iii) Information relative to materials of construction, general arrangement, and approximate dimensions, sufficient to provide reasonable assurance that the final design will conform to the design bases with an adequate margin for safety; and

(iv) Applicable codes and standards.

(4) A preliminary analysis and evaluation of the design and performance of structures, systems, and components of the ISFSI with the objective of assessing the risk to public health and safety resulting from operation of the installation and including determination of

(i) The margins of safety during normal operations and expected operational occurrences during the life of the installation and

(ii) The adequacy of structures, systems, and components provided for the prevention of accidents and the mitigation of the consequences of accidents, including natural and man-made phenomena and events.

(5) The means for controlling and limiting occupational radiation expo-

¹"Capacity" in this context refers to the quantity in metric tons of spent fuel, its contained radioactivity (curies) and heat generation rate (Btu/hr).

sure to meet the objective of as low as is reasonably achievable and the limits shown in Part 20 of this chapter.

(6) The features of ISFSI design and operating modes to minimize waste volumes generated by the facility.

(7) An identification and justification for the selection of those variables, conditions, or other items which are determined as the result of the safety analysis and evaluation to be probable subjects of license conditions, with special attention given to those items which may significantly influence the final design of the installation.

(8) A preliminary plan for the applicant's organization, training of personnel pursuant to § 72.91, and conduct of operations, including the planned managerial and administrative controls system.

(9) An identification of those structures, systems or components of the installation, if any, which require research and development to confirm the adequacy of their design; an identification and description of the research and development program which will be conducted to resolve any safety questions associated with such structures, systems or components; and a schedule of the research and development program showing that such safety questions will be resolved prior to the initial receipt of materials to be stored at the ISFSI.

(10) The technical qualifications of the applicant to engage in the proposed activities as required by § 72.17.

(11) A description of the applicant's plans for coping with emergencies as required by § 72.19.

(12) A description of the equipment to be installed to maintain control over radioactive materials in gaseous and liquid effluents produced during normal operations and expected operational occurrences. The description shall identify the design objectives, and the means to be employed, for keeping levels of radioactive material in effluents to unrestricted areas as low as reasonably achievable and within the limits shown in Part 20 of this chapter. The description shall include:

(i) An estimate of;

(A) The quantity of each of the principal radionuclides expected to be released annually to unrestricted areas in liquid effluents produced during normal ISFSI operations; and

(B) The quantity of each of the principal radionuclides expected to be released annually to unrestricted areas in gaseous effluents produced during normal ISFSI operations.

(ii) A general description of the provisions for packaging, storage, and disposal of solid wastes containing radioactive materials resulting from treat-

ment of gaseous and liquid effluents and from other sources.

(iii) A description of the equipment and procedures for the maintenance and use of equipment installed in radioactive waste systems.

(iv) Prior to the first receipt of material to be stored, a revised estimate of the information required in paragraph (a)(12)(i)(B) of this section if the expected releases and exposures differ significantly from the estimates submitted in the application.

(v) A description of the measures taken to control the quantities of radioactive wastes for offsite disposal to as low as reasonably achievable levels.

(13) A conservative analysis of the potential dose to an individual off site from accidents and natural phenomena which result in (i) criticality, (ii) release of radioactive materials to the site and surrounding areas, and (iii) the loss of water for water pool type installations. The calculations of dose from any pathway may be limited to direct exposure, inhalation or ingestion occurring within 24 hours of the postulated event.

(b) Periodically during design and normally prior to construction, with final completion at least 90 days prior to the planned receipt of materials to be stored, and annually thereafter, the safety analysis report (SAR) will be updated and submitted to the Commission for approval and shall include the following:

(1) All current information relating to applicable site evaluation factors, including the results of environmental monitoring programs.

(2) A description and analysis of changes in the structures, systems, and components of the installation, with emphasis upon performance requirements, the bases, with technical justification therefor, upon which such requirements have been established, and the evaluations required to show that safety functions will be accomplished.

(i) Such items as the instrumentation and control systems, ventilation and filter systems, electrical systems, auxiliary and emergency systems, and radioactive waste handling systems shall be discussed insofar as they are pertinent.

(3) A final analysis and evaluation of the design and performance of structures, systems, and components taking into account any pertinent information developed since the submittal of the license application.

(c) A description of the quality assurance program to be applied to the design, fabrication, construction, testing and operation of the safety-related structures, systems, and components of the ISFSI as required by § 72.75. The description of the quality assurance program shall identify safety-re-

lated structures, systems and components and shall show how the criteria in Appendix B of Part 50 of this chapter will be applied to such identified safety-related components, systems, and structures in a manner consistent with their importance to safety.

(d) A description of the detailed security measures for physical protection, including design features and a plan as required by § 72.81.

(e) A description of the planned program covering preoperational testing and initial operations.

(f) The decommissioning plan required under § 72.18 of this part.

§ 72.16 Contents of application: license conditions.

Each application under this part shall include proposed license conditions in accordance with the requirements of § 72.33 together with a summary statement of the bases or reasons for such conditions.

§ 72.17 Contents of application: technical qualifications.

An application under this part shall include:

(a) The technical qualifications, including training and experience of the applicant and members of the applicant's staff to engage in the proposed activities in accordance with the regulations in this chapter.

(b) A description of the personnel training program required under Subpart I of this part.

(c) A commitment by the applicant to have an adequate complement of trained and certified plant personnel prior to the receipt of spent fuel for storage.

§ 72.18 Decommissioning Plan, Including its Financing.

(a) Each application under this part shall include a decommissioning plan which shall contain information on proposed procedures for the disposal of radioactive material, decontamination of the site and other procedures, sufficient to provide reasonable assurance that the dismantling and disposal of the ISFSI at the end of its useful life will not be inimical to the common defense and security or to the health and safety of the public. This plan shall include an evaluation of the ISFSI design features which have been selected to facilitate to the maximum degree reasonable its decontamination and decommissioning at the end of its useful life. This plan shall include provisions for minimizing the amount of solid, airborne and liquid wastes generated during decommissioning.

(b) The decommissioning plan will include the financial arrangements for its execution.

§ 72.19 Emergency plan.

An application to store spent fuel in an ISFSI, will include plans for coping with emergencies. These plans shall contain the elements that are listed in Section IV, "Content of Emergency Plans," of Appendix E to Part 50 of this chapter.

§ 72.20 Environmental report.

Each application for a license under this part shall be accompanied by an Environmental Report which meets the requirements of Part 51 of this chapter; 150 copies are required.

Subpart C—Issuance and Conditions of licenses

§ 72.31 Issuance of Licenses.

(a) The Commission will issue a license under this part and updated prior to the receipt of spent fuel in such form and containing such conditions and limitations as it deems appropriate or necessary upon a determination that an application for a license meets the standards and requirements of the act and regulations, that the applicant's proposed site, installation and equipment for the storage of spent fuel are adequate to protect health and minimize danger to life or property; and that:

(1) The proposed site complies with the requirements of § 72.66.

(2) The applicant is qualified by reason of training and experience to conduct the operation covered by the regulations in this part.

(3) The applicant's personnel training program complies with Subpart I of this part.

(4) The applicant's proposed operating procedures to protect health and to minimize danger to life or property are adequate.

(5) The applicant is financially qualified to engage in the proposed activities in accordance with the regulations in this part.

(6) The applicant's physical security plan complies with § 72.81.

(7) The applicant's quality assurance plan complies with § 72.75.

(8) The applicant's emergency plan complies with § 72.19.

(9) The applicant's decommissioning plan and its financing pursuant to § 72.18 are adequate.

(10) Before commencement of construction of the installation, the Director of the Office of Nuclear Materials Safety and Safeguards or his designee, has concluded, or after a public hearing, the Atomic Safety and Licensing Board has made the finding that on the basis of information filed and evaluations made pursuant to Part 51 of this chapter, and after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for

is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion or finding may be grounds for denial of a license to store spent fuel in an ISFSI.

(11) No license will be issued by the Commission to any person within the United States if the Commission finds that the issuance of such a license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

§ 72.32 Duration of license; renewal.

Each license will be issued for a fixed period of time to be specified in the license but not to exceed 20 years. Licenses may be renewed by the Commission upon expiration of that period, upon application of the licensee.

§ 72.33 License conditions.

(a) Each license issued under this part will include license conditions. The license conditions will be derived from the analyses and evaluations included in the safety analysis report, and amendments thereto, submitted pursuant to § 72.15, and from the proposed license conditions submitted by the applicant pursuant to § 72.16. The Commission may also include such additional license conditions as the Commission finds appropriate.

(b) License conditions will include items in the following categories:

(1) *Functional and operating limits and monitoring instruments and limiting control settings.* (i) Functional and operating limits for an ISFSI are limits upon fuel handling and storage conditions which are found to be necessary to protect the integrity of the stored fuel and guard against excessive occupational exposures and the uncontrolled release of radioactive materials. (ii) Monitoring instruments and limiting control settings for an ISFSI are settings for alarms or mechanical devices related to those fuel handling and storage conditions having significant safety functions.

(2) *Limiting conditions.* Limiting conditions are the lowest functional capability or performance levels of equipment required for safe operation.

(3) *Surveillance requirements.* Surveillance requirements are requirements relating to tests, calibrations, and inspections to assure that the necessary integrity of required systems, components and the fuel in storage is maintained, that operation of the installation will be within the required safety limits, and that the limiting conditions required for safe storage will be met.

(4) *Design features.* Design features to be included are those features of

the installation such as materials of construction and geometric arrangements, which, if altered or modified, would have a significant effect on safety and are not covered in categories described in subparagraphs (1), (2), and (3) of this paragraph (c).

(5) *Administrative controls.* Administrative controls are the provisions relating to organization and management procedures, recordkeeping, review and audit, and reporting necessary to assure that the operations involved in the storage of spent fuel in an ISFSI are performed in a safe manner.

(c) In addition to the conditions described in paragraph (a) of this section, every license issued under this part shall be subject to the following conditions, whether stated therein or not:

(1) Neither the license, nor any right thereunder, shall be transferred, assigned, or disposed of in any manner, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Atomic Energy Act and give its consent in writing.

(2) The license shall be subject to revocation, suspension, modification, or amendment as provided in the Atomic Energy Act and Commission regulations, in accordance with the procedures provided by the Atomic Energy Act and Commission regulations.

(3) The licensee shall at any time before expiration of the license, upon request of the Commission, submit written statements, signed under oath or affirmation, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.

(4) Prior to the receipt of spent fuel for storage at an ISFSI, the licensee shall have in effect an NRC approved program covering the training and certification of ISFSI personnel which shall meet the requirements of subpart I of this part.

(5) The licensee shall not permit the manipulation of the safety-related equipment and controls of the installation by any one whom the licensee has not certified as being adequately trained to perform such manipulations.

(d) *Effluent controls.* Effluent controls are operating controls, including monitoring and testing controls and systems, and procedures required to keep releases of radioactive materials to unrestricted areas during normal operations and expected operational occurrences within the limits stated in EPA regulation, 40 CFR Part 190, "Environmental Radiation Protection

Standards for Nuclear Power Operations," as an upper limit. Each license authorizing the storage of spent fuels under this part will include license conditions that, in addition to requiring compliance with the limits and the as low as reasonably achievable provisions of part 20 of this chapter and the design objective included (or referenced) in paragraph (2) below, require:

(1) That operating by procedures for control of effluents by established and followed and equipment installed in the radioactive waste system be maintained and used as to meet the requirements of 40 CFR Part 190 as established in the license conditions.

(2) The submission of a report to the Commission within 60 days after June 30 and December 31 of each year specifying the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous 6 months of operation, and such other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases. If quantities of radioactive materials released during the reporting period are significantly above design objectives, the report shall cover this specifically. On the basis of such reports and any additional information the Commission may obtain from the licensee or others, the Commission may from time to time require the licensee to take such action as the Commission deems appropriate.

(e) Maintenance of safeguards contingency plan procedures pursuant to § 72.81(d).

§ 72.34 Changes, tests and experiments.

(a)(1) The holder of a license issued under this part may (i) make changes in the installation as described in the safety analysis report, (ii) make changes in the procedures as described in the safety analysis report, and (iii) conduct tests or experiments not described in the safety analysis report, without prior Commission approval, unless the proposed change, test or experiment involves a change in the license conditions incorporated in the license or an unreviewed safety question.

(2) A proposed change, test, or experiment shall be deemed to involve an unreviewed safety question (i) if the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report may be increased; or (ii) if a possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report may be created; or (iii) if the margin of safety as

defined in the basis for any license condition is reduced.

(b) The licensee shall maintain records of changes in the installation and of changes in procedures made pursuant to this section, to the extent that such changes constitute changes in the installation as described in the safety analysis report or constitute changes in procedures as described in the safety analysis report. The licensee shall also maintain records of tests and experiments carried out pursuant to paragraph (a) of this section. These records shall include a written safety evaluation which provides the bases for the determination that the change, test or experiment does not involve an unreviewed safety question. The licensee shall furnish to the Commission, or the appropriate regional office, annually or at such shorter intervals as may be specified in the license, a report containing a brief description of such changes, tests and experiments, including a summary of the safety evaluation of each. Any report submitted by a licensee pursuant to this paragraph will be made a part of the public record of the licensing proceeding. In addition to a signed original, 12 copies of each report of changes shall be filed. The records of changes in the installation and of changes in procedures and records of tests shall be maintained for the lifetime of the installation.

(c) The holder of a license issued under this part who desires (1) a change in license conditions or (2) to make a change in the installation or the procedures described in the safety analysis report or to conduct tests or experiments not described in the safety analysis report, which involve an unreviewed safety question or a change in license conditions, shall submit an application for amendment of his license pursuant to § 72.39.

(d) The licensee shall make no change which would decrease the effectiveness of the physical security plan prepared pursuant to § 72.81 without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to § 72.39. The licensee shall maintain records of changes to the plan made without prior Commission approval, for a period of 2 years from the date of the change, and shall furnish the Commission a report containing a description of each change within 2 months after the change is made.

TRANSFERS OF LICENSES—CREDITORS' RIGHTS—SURRENDER OF LICENSES

§ 72.36 Transfer of licenses.

(a) No license issued under this part or any right thereunder, shall be

transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall give its consent in writing.

(b)(1) An application for transfer of a license shall include as much of the information described in §§ 72.14, 72.15 and 72.16 with respect to the identity and technical and financial qualifications of the proposed transferee as would be required by those sections if the applications were for an initial license. One signed original of the application executed under oath or affirmation plus 25 copies shall be submitted.

(2) The Commission may require additional information such as data respecting proposed protection from radioactive materials and the applicant's qualifications in this technology. The application shall include also a statement of the purposes for which the transfer of the license is requested and the nature of the transaction necessitating or making desirable the transfer of the license.

(3) The Commission may require any person who submits an application for license pursuant to the provisions of this section to file a written consent from the existing licensee or a certified copy of an order or judgment of a court of competent jurisdiction attesting to the person's right subject to the licensing requirements of the Act and these regulations to possession of the spent fuel and the storage installation involved.

(c) After appropriate notice to interested persons, including the existing licensee, and observance of such procedures as may be required by the act or regulations or orders of the Commission, the Commission will approve an application for the transfer of a license, if the Commission determines:

(1) That the proposed transferee is qualified to be the holder of the license; and

(2) That transfer of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

§ 72.37 Creditor regulations.

(a) Pursuant to section 184 of the act, the Commission consents, without individual application, to the creation of any mortgage, pledge, or other lien upon special nuclear material contained in spent fuel not owned by the United States which is the subject of a license or upon any interest in such special nuclear material in spent fuel: *Provided:*

(1) That the rights of any creditor so secured may be exercised only in compliance with and subject to the same requirements and restrictions as would

apply to the licensee pursuant to the provisions of the license, the Atomic Energy Act of 1954, as amended, and regulations issued by the Commission pursuant to said act; and

(2) That no creditor so secured may take possession of the spent fuel pursuant to the provisions of this section prior to either the issuance of a license from the Commission authorizing such possession or the transfer of the license.

(b) Any creditor so secured may apply for transfer of the license covering such spent fuel by filing an application for transfer of the license pursuant to § 72.36(b). The Commission will act upon such application pursuant to § 72.36(c).

(c) Nothing contained in this regulation shall be deemed to affect the means of acquiring, or the priority of, any tax lien or other lien provided by law.

(d) As used in this section, "Creditor" includes, without implied limitation, the trustee under any mortgage, pledge or lien on spent fuel in storage made to secure any creditor, any trustee or receiver of such spent fuel appointed by a court of competent jurisdiction in any action brought for the benefit of any creditor secured by such mortgage, pledge or lien, any purchaser of such spent fuel at the sale thereof upon foreclosure of such mortgage, pledge, or lien or upon exercise of any power of sale contained therein, or any assignee of any such purchaser.

§ 72.38 Applications for termination of licenses.

(a) Any licensee may apply to the Commission for authority to surrender a license voluntarily and to dismantle the installation and dispose of the materials stored therein. The Commission may require information, including information as to proposed procedures for the disposal of radioactive material, decontamination of the site, to provide reasonable assurance that the decommissioning and disposal will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public. The application for termination of a license issued under this part shall be submitted as one signed original plus 25 copies.

(b) If the application demonstrates that the decommissioning of the installation and disposal of the materials stored therein will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public, and after notice to interested persons, the Commission may issue an order authorizing such decommissioning and dis-

posals, and providing for the termination of the license upon completion of such procedures in accordance with any conditions specified in the order.

AMENDMENT TO LICENSE AT REQUEST OF HOLDER AND REVOCATION, SUSPENSION AND MODIFICATION OF LICENSES

§ 72.39 Application for amendment to license.

Whenever a holder of a license desires to amend the license, an application for an amendment shall be filed with the Commission, fully describing the changes desired, and the reasons for such changes, and following as far as applicable the form prescribed for original applications.

§ 72.40 Issuance of amendment.

In determining whether an amendment to a license will be issued to the applicant, the Commission will be guided by the considerations which govern the issuance of initial licenses to the extent applicable and appropriate.

§ 72.41 Revocation, suspension and modification of licenses

(a) The terms and conditions of all licenses are subject to amendment, revision, or modification by reason of amendments to the Atomic Energy Act of 1954, or by reason of rules, regulations or orders issued in accordance with the Act or any amendments thereto.

(b) Any license may be revoked, suspended or modified in whole or in part for any material false statement in the application or any statement of fact required under Section 182 of the Act, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for failure to operate an installation in accordance with the terms of the license, or for violation of, or failure to observe any of the terms and conditions of the Act, or any regulation, license or order of the Commission.

(c) Upon revocation, suspension or modification of a license, the Commission may immediately cause the retaking of possession of all special nuclear material contained in spent fuel held by the licensee. In cases found by the Commission to be of extreme importance to the national defense and security, or to the health and safety of the public, the Commission may take possession of any spent fuel held by the licensee prior to any of the procedures provided under sections 551-558 of title 5 of the United States Code.

§ 72.42 Backfitting.

(a) The Commission may require the backfitting of an ISFSI if it finds that such action will provide substantial, additional protection which is required for either occupational or public health and safety. As used in this section, "backfitting" means a change in storage conditions which may require the addition, elimination or modification of structures, systems or components of an ISFSI, after the license has been issued.

(b) Nothing in this section shall be deemed to relieve a holder of a license from compliance with the rules, regulations, or orders of the Commission.

(c) The Commission may at any time require a holder of a license to submit such information concerning the backfitting or the proposed backfitting of the installation as it deems appropriate.

Subpart D—Records, Reports, Inspections and Enforcement

§ 72.51 Material balance, inventory, and records requirements for stored materials.

(a) Each licensee shall keep records showing the receipt, inventory (including location), disposal, acquisition, and transfer of all spent fuel in storage regardless of its origin or method of acquisition.

(b) Each licensee shall conduct a physical inventory of all spent fuel in storage at intervals not to exceed 12 months or as otherwise directed by the Commission.

(c) Each licensee shall establish, maintain and follow written material control and accounting procedures which are sufficient to enable the licensee to account for the spent fuel in storage under license.

(d) Records of spent fuel in storage shall be kept in duplicate for as long as the spent fuel is in storage at an ISFSI. The duplicate set of records shall be kept at a separate location far enough removed from the original records so that a single event would not destroy both sets of records. Records of spent fuel transferred out of an ISFSI shall be preserved for a period of 5 years after the date of transfer.

§ 72.52 Reports of accidental criticality or loss of special nuclear material.

Each licensee shall report immediately to the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office by telephone, and telegram, or teletype, any case of accidental criticality and any loss of special nuclear material contained in spent fuel.

§ 72.53 Material Status Reports.

Each licensee shall complete and submit to the Commission Material

Status Reports on Form NRC-742, in accordance with printed instructions for completing the form, concerning special nuclear material contained in spent fuel possessed, received, transferred, disposed of or lost by the licensee. All such reports shall be made as of March 31 and September 30 of each year and shall be filed with the U.S. Department of Energy, P.O. Box E, Oak Ridge, Tennessee, 37830, within thirty (30) days after the end of the period covered by the report. The Commission may permit a licensee to submit Material Status Reports at other times when good cause is shown.

§ 72.54 Nuclear Material Transfer Reports.

Each licensee who transfers and each licensee who receives spent fuel shall complete and distribute a Nuclear Material Transaction Report on Form NRC-741, in accordance with printed instructions for completing the form, whenever he transfers or receives spent fuel. Each licensee who transfers spent fuel shall submit a copy of Form NRC-741 to the U.S. Department of Energy, P.O. Box E, Oak Ridge, Tennessee 37830, and three copies to the receiver of the material promptly after the transfer takes place. Each licensee who receives spent fuel shall submit a copy of Form NRC-741 to the Department of Energy and to the shipper of the material within 10 days after the spent fuel is received.

§ 72.55 Inspections and tests.

(a) Each licensee shall afford to the Commission at all reasonable times opportunity to inspect spent fuel in storage and the premises and installation wherein such spent fuel is stored.

(b) Each licensee shall make available to the Commission for inspection, upon reasonable notice, records kept by the licensee pertaining to his receipt, possession, or transfer of spent fuel.

(c) Each licensee shall perform, or permit the Commission to perform, such tests as the Commission deems appropriate or necessary for the administration of the regulations in this part, including tests of (1) spent fuel during handling and storage, (2) spent fuel handling and storage facilities, (3) radiation detection and monitoring equipment, and (4) other equipment used in connection with spent fuel storage.

§ 72.56 Maintenance of other records and reports.

(a) Each licensee shall maintain such records and make such reports in connection with the licensed activities as may be required by the conditions of the license or by the rules, regula-

Subpart E—Siting criteria

tions, and orders of the Commission in effectuating the purposes of the Act.

(b) Each licensee shall, upon each issuance of its annual financial report, including the certified financial statements, file a copy thereof with the Commission.

(c) Records which are required by the regulations in this part or by the license conditions shall be maintained for a period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified, such records shall be maintained until the Commission authorizes their disposition.

(d) Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(e) If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 72.8, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

§ 72.57 Violation.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Atomic Energy Act of 1954, as amended, or Title II of the Energy Reorganization Act of 1974, as amended, or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Atomic Energy Act for violation of section 53, 57, 62, 63, 81 or 82 of the Atomic Energy Act, or section 206 of the Energy Reorganization Act of 1974, or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Atomic Energy Act. Any person who willfully violates any provision of the Atomic Energy Act, or any regulation or order issued thereunder, may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

§ 72.61 General Criteria.

(a) Site characteristics which may directly affect the safety of the ISFSI shall be investigated and assessed.

(b) Proposed sites for the ISFSI shall be examined with respect to the frequency and the severity of external natural and man-induced events that could affect the safe operation of the installation.

(c) Design basis external events shall be determined for each combination of proposed site and proposed installation design.

(d) Proposed sites with design basis external events for which adequate protection cannot be provided through installation design shall be deemed unsuitable for the location of the ISFSI.

(e) For each proposed site, the potential for radiological consequences in the region shall be evaluated with due consideration of the characteristics of the population, including its distribution.

(f) For each proposed site, pursuant to Part 51 of this chapter, the potential for environmental impact to the region shall be evaluated with due consideration of the characteristics of the regional environs, including its historical and aesthetic value.

§ 72.62 Criteria for design basis external natural events.

(a) Natural phenomena which may exist or can occur in the region of a proposed site shall be identified and assessed according to their potential effects on the safe operation of the installation. The important natural phenomena for which design basis should be derived shall be identified.

(b) Historical records of the occurrence and severity of those important natural phenomena shall be collected for the region and evaluated for reliability, accuracy and completeness.

(c) Appropriate methods shall be adopted for establishing the design basis natural events for important natural phenomena. The methods should be justified as being compatible with the characteristics of the region and the current state of knowledge.

§ 72.63 Criteria for design basis external man-induced events.

(a) The region shall be examined for man-made facilities and activities that might endanger the proposed ISFSI. The important man-induced phenomena for which design basis external man-induced events should be derived shall be identified.

(b) Information concerning the occurrences and severity of those important man-induced phenomena shall be collected and analyzed for reliability, accuracy and completeness.

(c) Appropriate methods shall be adopted for establishing the design basis external man-induced events for those phenomena. The methods should be justified as being compatible with the characteristics of the region and the current state of knowledge.

§ 72.64 Criteria for defining potential effects of the ISFSI on the region.

(a) The proposed site shall be examined with respect to the effects on people in the region resulting from the release of radioactive materials under normal and accident conditions; in this evaluation unusual regional and site characteristics shall be taken into account.

(b) Each site shall be examined with respect to the effects on the regional environment resulting from construction, operation and decommissioning of the ISFSI; in this evaluation unusual regional and site characteristics shall be taken into account.

(c) Effects which would otherwise be unacceptable shall be compensated for by the ISFSI design or the site shall be deemed unsuitable.

§ 72.65 Criteria for regional distribution of population.

(a) The proposed site shall be evaluated with respect to the present and future character and distribution of the human population of the region. Such evaluation, which should include consideration of present and projected future uses of land and water within the region, shall also take into account any special characteristics which may influence the potential consequences of a release of radioactive material during the operational lifetime of the ISFSI.

(b) A controlled area and a neighboring area shall be established for each site.

(c) The licensee shall have authority within the controlled area to determine all activities including exclusion or removal of personnel and property from the area.

(d) The neighboring area of a proposed site shall be evaluated from the perspective of the potential for adverse consequences to the human population or environment and of the capability of implementing protective measures as may be necessary to mitigate the immediate effects of a release of radioactive material.

(e) The distribution of the human population in the region surrounding the site shall be evaluated with respect to both the potential for adverse consequences to regional populations from normal and potential accidental releases of radioactive material during operations and decommissioning of the ISFSI.

(f) Effects which would otherwise be unacceptable shall be compensated for

by the ISFSI design or the site shall be deemed unsuitable.

§ 72.66 Criteria for defining acceptable seismic characteristics.

(a) A peak horizontal ground acceleration of not greater than 0.25 g with a recurrence interval of at least 500 years (equivalent to a 90 percent probability of not being exceeded in 50 years) shall be deemed suitable for an ISFSI site and require only the foundation engineering and geologic hazards investigations covered in the following paragraph (b). However, as an alternative approach the applicant has the option of establishing a site specific "g value" by the procedures of Part 100 of this chapter.

(b) An ISFSI founded on bedrock and (and meeting criterion "a") is acceptable, and no detailed site-specific earthquake analysis is required unless some unusual geologic characteristic is identified (e.g., active faulting, mass wasting, cavernous or karst terrain, subsidence collapse or uplift potential, etc.). If not founded on bedrock and where a potential exists for soil liquefaction or other soil instability due to vibratory ground motion or other anomaly, it must be shown by site-specific investigations and laboratory analysis that soil failure could not occur in the foundation materials during the operating life of the installation.

(c) For ISFSI designs other than the water basin type proposed sites will be evaluated on the basis of a site-specific investigation and analysis.

§ 72.67 Criteria for defining potential radiological consequences.

(a) During normal operations and anticipated occurrences, the annual dose equivalent shall not exceed 25 mrem to the whole body, 75 mrem to the thyroid and 25 mrem to any other organ of an actual individual located outside the controlled area as a result of planned discharges of radioactive materials in the general environment.² In this evaluation unusual regional and site characteristics shall be taken into account.

(b) Under accident conditions, the calculated exposure from the controlling design basis accident shall not exceed 5 Rem in 2 hours at the outside boundary of the controlled area.

Subpart F—General Design Criteria

§ 72.71 General design criteria.

Pursuant to the provisions of § 72.15, an application to store spent fuel in an ISFSI must include the principal design criteria for the proposed storage installation. The principal design criteria establish the design, fabrication, construction, testing, and per-

formance requirements for structures, systems, and components important to safety, as defined in § 72.3. The general design criteria identified in this section establish minimum requirements for the principal safety-related design criteria for an ISFSI. Any omissions in these general design criteria do not relieve the applicant from the requirement of providing the necessary safety features in the design of this installation.

OVERALL REQUIREMENTS

(1) *Quality standards.* Structures, systems, and components important to safety shall be designed, fabricated, erected, and tested to quality standards commensurate with the importance of the function to be performed.

(2) *Protection against Environmental Conditions and Natural Phenomena.*

(i) Structures, systems, and components important to safety shall be designed to accommodate the effects of and to be compatible with site characteristics and environmental conditions associated with normal operation, maintenance and testing of the ISFSI, and with postulated accidents.

(ii) Structures, systems, and components important to safety shall be designed to withstand the effects of natural phenomena such as earthquakes (with a horizontal ground motion acceleration of at least 0.25g), tornadoes (excluding tornado missiles), lightning, hurricanes, floods, tsunamis, and seiches without impairing their capability to perform safety functions. The design bases for these structures, systems, and components shall reflect: (A) Appropriate consideration of the most severe of the natural phenomena reported for the site and surrounding area, with appropriate margins to take into account the limitations in the quantity of the historical data and the period of time in which the data have been accumulated; and (B) appropriate combinations of the effects of normal and accident conditions and the effects of natural phenomena.

(iii) Capability for determining the intensity of natural phenomena which may occur for comparison with design bases of structures, systems, and components important to safety shall be provided.

(iv) If an ISFSI is located over an aquifer, measures must be taken to preclude the transport of radioactive materials to man and the environs through this potential pathway.

(3) *Protection against fires and explosions.* Structures, systems, and components important to safety shall be designed and located so as to continue to perform their safety functions effectively under fire and explosion exposure conditions. Noncombustible and heat-resistant materials shall be used wherever practical throughout the installation, particularly in locations vital to the control of radioactive materials, and to the maintenance of safety control functions. Explosion and fire detection, alarm, and suppression systems shall be designed and provided with sufficient capacity and capability to minimize the adverse effects of fires and explosions on structures, systems, and components important to safety. The design of the facility shall include provisions to protect against adverse effects which might result from either the oper-

ation or the failure of the fire suppression system.

(4) *Sharing of structures, systems, and components.* Structures, systems, and components important to safety shall not be shared between an ISFSI and other plants unless it is shown that such sharing will not impair the capability of the ISFSI to perform its safety functions, including the capability for return to a safe condition in the event of an accident or incident.

(5) *Proximity of sites.* An ISFSI located near other nuclear facilities shall be designed and operated to ensure that the cumulative effects of their combined operations will not result in a significant additional risk to the health and safety of the public.

(6) *Testing and maintenance of systems and components.* Systems and components that have safety-related functions shall be designed to permit inspection, maintenance, and testing to ensure their continued functioning to meet their design objectives.

(7) *Emergency capability.* Structure, systems, and components important to safety shall be designed to assure capability of continuity of operations and handling of the emergency. The design shall ensure capability for use, as necessary, of onsite facilities and available offsite facilities and services such as hospitals, fire and police departments, ambulance service, and other emergency agencies.

(8) *Confinement barriers and systems.* (i) The fuel cladding shall be protected against degradation and gross ruptures.

(ii) For underwater storage of spent fuel in which the pool water serves as a shield and a confinement medium for radioactive materials, systems designed for maintaining water purity and the pool water level shall be designed so that any maloperation or failure in those systems from any cause will not cause the water level to fall below safe limits. Drains, permanently connected systems and other features that by maloperation or failure could cause a significant loss of water shall not be installed or included in the design. Pool water level monitoring equipment shall be provided to alarm both locally and in a continuously manned location if the water level in the fuel storage pools falls below a predetermined level.

(iii) Ventilation systems shall be provided where necessary, e.g., for the cask venting station, to assure the confinement of airborne radioactive particulate materials during normal or off-normal conditions.

(9) *Instrumentation and control systems.* Instrumentation and control systems shall be provided to monitor safety-related systems over anticipated ranges for normal operation and off-normal operation. Those instruments and control systems which must remain operational under accident conditions must be identified and designed to remain operable.

(10) *Control room or control areas.* A control room or control areas shall be designed to permit occupancy and actions to be taken to operate and monitor the ISFSI safely under normal conditions and to maintain the ISFSI in a safe condition under off-normal or accident conditions.

(11) *Utility services.* (i) The design of each utility service system required for emergency conditions shall provide for the meeting of safety demands under normal and off-normal conditions. The design of safety-related utility services and distribution shall include redundant systems to the extent

²40 CFR 190.11.

necessary to maintain, with adequate capacity, the ability to perform safety functions assuming a single failure.

(ii) Emergency utility services shall be designed to permit testing of the functional operability and capacity, including the full operational sequence, of each system for transfer between normal and emergency supply sources, and the operation of associated safety systems.

(iii) Provisions shall be made so that, in the event of a loss of the primary electric power source or circuit, reliable and timely emergency power will be provided to instruments, utility service systems, and operating systems including the security central alarm station, in amounts sufficient to allow safe storage conditions to be maintained with all safety devices essential to safe storage functioning.

NUCLEAR CRITICALITY SAFETY

(12) *Design for criticality safety.* All handling, transfer and storage systems shall be designed to be maintained subcritical and to insure that no nuclear criticality accident can occur unless at least two unlikely (i.e., very low probability), independent, and concurrent or sequential changes have occurred in the conditions essential to nuclear criticality safety. The design of handling, transfer and storage systems shall include margins of safety for the nuclear criticality parameters that are commensurate with the uncertainties in the handling, transfer, and storage conditions, in the data and methods used in calculations, and in the nature of the immediate environment under accident conditions.

(13) *Acceptable methods of control.* (i) Favorable geometry (spacing) is the standard method of nuclear criticality control. Subcriticality is assured by limiting the reactivity through the control of spacing of the individual storage unit (one or more fuel assemblies), and for underwater storage, by the neutron absorption by the water between storage units. Storage racks must be structurally compatible with seismic design criteria.

(ii) The use of permanently fixed neutron-absorbing materials (poisons) is an alternative method of criticality control. Where solid neutron-absorbing materials are used for the prevention of nuclear criticality, the design shall provide for positive means to verify their continued efficacy.

RADIOLOGICAL PROTECTION

(14) *Exposure control.* Appropriate radiation protection systems and programs shall be provided for all areas and operations where plant personnel may be exposed to levels of radiation or airborne radioactive materials significantly above background levels to insure that exposures are within the limits of Part 20 and are as low as is reasonably achievable. Structures, systems, and components for which operation, maintenance, and required inspections may involve such exposure shall be designed, fabricated, located, shielded, controlled and tested so as to control external and internal radiation exposures to personnel. This shall include means to:

(i) Prevent the accumulation of or provide for decreasing the content of radioactive material in those systems to which access by personnel is required;

(ii) Provide for control of access to areas of potential contamination or high radiation within the ISFSI;

(iii) Assure that contamination can be monitored and controlled;

(iv) Minimize the time required to perform work in the vicinity of radioactive components, such as by providing sufficient space for ease of operation and designing equipment for ease of repair and replacement; and

(v) Provide shielding to assure that exposures to personnel in accessible areas are within the limits of Part 20 and are as low as is reasonably achievable.

(15) *Radiation alarm systems.* Radiation alarm systems shall be provided to warn operating personnel of significant increases in radiation levels in accessible work areas and of excessive concentrations of radioactive material in effluents. Such systems shall be designed with capability to permit testing of their operability.

(16) *Effluent monitoring.* Effluent systems shall be designed to include means for measuring the amount of radionuclides in any effluent. In order that the data thus measured and recorded can be used, a means of measuring the flow of environmental diluting media, either air or water, shall be provided.

(17) *Effluent control.* The design of the ISFSI shall include means to minimize the release in effluents of radioactive materials in any form, during normal operations and under accident conditions. Systems provided to guard against the release of radioactive materials shall be designed to be monitored and tested, and shall be provided with alarms. Capability shall be provided for prompt cessation of the flow of contaminated effluents or for retention of such effluents as is necessary to ensure that the concentrations and total quantities of radioactive materials in effluents are maintained within the limits of Part 20 and are as low as is reasonably achievable.

SPENT FUEL AND RADIOACTIVE WASTE STORAGE AND HANDLING

(18) *Spent fuel and radioactive waste storage and handling systems.* Spent fuel storage, radioactive waste storage, and other systems that might contain or handle radioactive materials shall be designed to assure adequate safety under normal and accident conditions. These systems shall be designed (i) with a capability to test and monitor components important to safety, (ii) with suitable shielding for radiation protection under normal and accident conditions, (iii) with confinement systems, (iv) with a heat removal capability having testability and reliability consistent with the importance to safety, and (v) to minimize the quantity of radioactive wastes generated.

(19) *Waste treatment.* Radioactive waste treatment facilities shall be provided. These facilities shall be designed to concentrate all site generated wastes and convert them into a form suitable for interim storage and ultimate final disposal.

DECOMMISSIONING

(20) *Decommissioning.* An ISFSI shall be designed to facilitate decontamination of structures and equipment and to minimize the quantity and facilitate the removal of radioactive wastes and contaminated equipment at the time the installation is permanently decommissioned.

Subpart G—Quality Assurance

§ 72.75 Quality assurance program; records.

(a) A quality assurance program based on the criteria in Appendix B of Part 50 of this chapter shall be established and implemented to provide assurance that the safety-related structures, systems and components of an ISFSI will perform their safety functions. The application of the quality assurance program should be commensurate with the importance of individual structures, systems and components to safety. The quality assurance program should cover the activities of designing, purchasing, fabricating, handling, shipping, storing, cleaning, erecting, installing, inspecting, testing, operating, maintaining, repairing, and modifying.

(b) As used in this section, "quality assurance" means all those planned and systematic actions necessary to provide confidence that a structure, system, or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to the physical characteristics of a material, structure, component, or system which provide a means to control the quality of the material, structure, component, or system to predetermined requirements.

(c) Appropriate records of the design, fabrication, erection, and testing of structures, systems, and components important to safety shall be maintained by or under the control of the licensee throughout the life of the installation.

Subpart H—Plant Protection

§ 72.81 Physical security plan.

(a) The plan for detailed security measures for physical protection shall consist of two parts. Part I shall demonstrate how the applicant plans to comply with the applicable requirements of Part 73 of this chapter at the proposed installation. Part II shall list tests, inspections, audits, and other means to be used to demonstrate compliance with such requirements. Ten copies are required.

(b) A description of the design for physical protection shall show the site layout and ISFSI design features which will make the installation less vulnerable to sabotage, and shall include:

(1) The principal design criteria for the physical protection of the proposed installation.

(2) The design bases and the relation of the design bases to the principal design criteria submitted pursuant to paragraph (a) of this section; and

(3) Information relative to materials of construction, equipment, general ar-

range, and proposed quality assurance program sufficient to provide reasonable assurance that the final installation will conform to the design bases for the principal design criteria submitted pursuant to paragraph (a) of this section.

(c) The licensee safeguards contingency plan for dealing with threats and industrial sabotage are defined in Part 73 relating to nuclear facilities licensed under Part 50 of this chapter. This plan shall include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to Part 73 of this chapter are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.)

(d) The licensee shall prepare and maintain safeguards contingency plan Procedures in accordance with Appendix C of 10 CFR Part 73 for effecting the actions and decisions contained in the Responsibility Matrix of his safeguards contingency plan. The licensee shall make no change that would decrease the safeguards effectiveness of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix) contained in any licensee safeguards contingency plan prepared pursuant to §§ 72.81(c) and 70.22(g), 70.22(j), 73.30(g), or 73.40 of this chapter without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to § 72.39 of this chapter. The licensee may make changes to the licensee safeguards contingency plan without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain records of changes to any such plan made without prior approval for a period of 2 years from the date of the change and shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, a report containing a description of each change within 2 months after the change is made.

Subpart I—Training and Certification of ISFSI Personnel

§ 72.91 Scope of training program.

Manipulation of equipment and controls which have been identified as safety-related in the safety analysis report shall be limited to trained personnel, or in an emergency situation, under the direct supervision of an individual with adequate training in

such operation. Supervisory personnel who direct the manipulation of safety-related equipment and controls must have a level of training in such operations comparable to that of trained operating personnel.

§ 72.92 Responsibility for training program.

The training and proficiency certification of operating personnel is the responsibility of the licensee under this part.

§ 72.93 Physical requirements.

(a) The physical condition and the general health of personnel certified for the manipulation of safety-related equipment and controls must not be such as might cause operational error endangering other in-plant personnel or the public health and safety. Any physical or mental condition which might cause impaired judgment or motor coordination must be considered in the selection of personnel for safety-related activities. Such conditions need not categorically disqualify a person provided appropriate provisions are made to accommodate such defect.

§ 72.94 Submission for approval.

The applicant for a license under this part must submit his program for training, proficiency testing and certification of ISFSI personnel to the Commission for approval at least 6 months prior to the scheduled receipt of the first materials for storage.

Dated at Washington, D.C., this 29th day of September 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-28154 Filed 10-5-78; 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]

TENTATIVE FINAL REGULATION RELATING TO INVESTIGATIONAL DEVICE EXEMPTIONS

Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Tentative final regulation; extension of comment period.

SUMMARY: This document extends the time for submission of comments of the tentative final order for investigational device exemptions (IDE's)

and all matters discussed at the Food and Drug Administration's (FDA) hearing August 7, 1978 on the tentative final order. The agency is taking this action in response to several requests for an extension.

DATE: The deadline for written comments is extended until December 5, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Frank Morlock, Bureau of Medical Devices (HFK-70), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, telephone 301-427-7114.

SUPPLEMENTARY INFORMATION:

On August 7, 1978, a hearing before the Commissioner of Food and Drugs was held at FDA headquarters in Rockville, Md., to receive comments and views from interested persons on the tentative final order on procedures for IDE's. The tentative final order was published in the FEDERAL REGISTER on May 12, 1978 (43 FR 20726) and the notice of hearing in the FEDERAL REGISTER on June 9, 1978 (43 FR 25142). The notice of hearing provided that the administrative record of the hearing would remain open until the end of the comment period on September 11, 1978, so that additional written comments and views concerning matters discussed during the hearing could be submitted.

The Commissioner has received two written and five oral requests for an extension of the comment period as a result of subsequent issuance of the following four related documents concerning clinical investigations and protection of human subjects: (1) Proposed rules of research involving children published by the Department of Health, Education, and Welfare in the FEDERAL REGISTER of July 21, 1978 (43 FR 31786); (2) proposed standards for institutional review boards for clinical investigators (43 FR 35186), and (3) proposed obligations of clinical investigators of regulated articles (43 FR 35210), both published by FDA in the FEDERAL REGISTER of August 8, 1978; and (4) Report and Recommendations on Institutional Review Boards, authored by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (the Commission) on September 1, 1978.

The element common to these seven requests is that it is in the public interest to extend the comment period to allow all interested parties suffi-

cient time to analyze all related documents.

One request asked that the comment period for IDE's and obligations of clinical investigators be extended to the close of the comment period for the proposed rules on institutional review boards, which is December 6, 1978, or, alternatively, that the IDE comment period be extended for 30 days. Another request asked that the comment period be extended to November 1, 1978.

The Commissioner agrees that an extension of the comment period is in order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 520, 701(a), 702, 704, 801(d), 52 Stat. 1042-1053 as amended, 1049-1051 as amended, 1055-1057 as amended, 90 Stat. 565-574, 587 (21 U.S.C. 331, 351, 352, 360j, 371(a), 372, 374, 381)) and under authority delegated to him (21 CFR 5.1), the Commissioner hereby grants an extension of the comment period until December 5, 1978 to allow all interested parties an opportunity to review and analyze the transcript of the proceedings and all outstanding proposals relating to IDE's. This extension will also enable interested parties to comment on matters discussed at the hearing and on the effect of all the FDA proposals and Commission recommendations. A copy of the transcript of the hearing is available at the office of the Hearing Clerk.

Interested persons may, on or before December 5, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding the tentative final regulation and the matters relating to it discussed above. Four copies of all comments, identified by Docket No. 76N-0324, shall be submitted, except that individuals may submit single copies of comments. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 29, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-28087 Filed 10-5-78; 8:45 am]

[1505-01]

[21 CFR Parts 16, 54, 71, 170, 171, 180, 310, 312, 314, 320, 330, 361, 430, 431, 510, 511, 514, 570, 571, 601, 630, 1003, and 1010]

[Docket No. 77N-0278]

OBLIGATIONS OF CLINICAL INVESTIGATORS OF REGULATED ARTICLES

Proposed Establishment of Regulations

Correction

In FR Doc. 78-21790, appearing at page 35210 in the issue for Tuesday, August 8, 1978, the following changes should be made:

1. On page 35229, in the third column, the heading "§ 170.6" should read "§ 171.6."
2. On page 35233, in the third column, paragraph (iv), sixth line, "parts" should read "Parts" and "51" should read "511."

[1505-01]

[21 CFR Part 320]

[Docket No. 78N-0178]

PROCAINAMIDE HYDROCHLORIDE BIOEQUIVALENCE REQUIREMENTS

Correction

In FR Doc. 78-21943 appearing at page 35056 in the issue for Tuesday, August 8, 1978, make the following changes:

1. On page 35056, first column, fifth line of the SUMMARY, "hearbeat" should read "heartbeat"; second column, first line at the top, "bioequivalence" should read "bioinequivalence".
2. On page 35058, third column, fourth line of § 320.108(c)(2)(i), insert "measured" after "comparing".

[1505-01]

[21 CFR Part 558]

[Docket No. 77N-0318]

NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Animal Feeds Containing Penicillin and Tetracycline; Postponement of Final Action

Correction

In FR Doc. 78-21788, appearing at page 35059 in the issue for Tuesday, August 8, 1978, on page 35060 in the first column, first paragraph, last line "firm's" should read "firms"; third paragraph, last line should read "veterinarian's order procedure."

[4510-26]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-112]

ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS

Public Hearings

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of public hearings.

SUMMARY: On July 21, 1978, OSHA published a proposed rule on access to employee exposure and medical records and gave interested persons until September 22, 1978, to submit written comments. Based on the widespread interest expressed on the proposal, OSHA has decided to hold informal public hearings on the proposed rule, to be held on December 5, 12, and 15, 1978, in Washington, D.C., Chicago, and San Francisco, as set forth below.

DATES: Notices of intention to appear must be submitted by November 13, 1978, and copies of testimony and accompanying documents must be submitted by November 22, 1978.

ADDRESS: Documents pertaining to the hearing should be submitted to the OSHA Division of Consumer Affairs, Docket No. H-112, Room N-3635, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210, 202-523-8024.

FOR FURTHER INFORMATION CONTACT:

Mr. Kevin Conlon, OSHA Division of Consumer Affairs, Room N-3635, U.S. Department of Labor, 3d Third Street and Constitution Avenue NW., Washington, D.C. 20210, 202-523-8024.

SUPPLEMENTARY INFORMATION: On July 21, 1978, OSHA published in the FEDERAL REGISTER a proposed rule on access to employee exposure and medical records (43 FR 31371). The proposed rule includes requirements for the retention of all employee exposure and medical records which are maintained by employers, and for the availability of these records to employees, former employees, their designated representatives, and to OSHA and the National Institute of Occupational Safety and Health (NIOSH). The text of the proposed rule and a discussion of its background, purpose, and significant issues appeared in the July 21 FEDERAL REGISTER document.

In accordance with 5 U.S.C. 553, OSHA gave interested persons until September 22, 1978, to present written comments, views or arguments on any

issue raised by the proposal. As a result, OSHA has received a total of 212 comments to date. Several of these comments either requested extensions of time in which to file comments or asked that OSHA hold public hearings on this matter.

Based on the comments, it is evident that there is widespread interest in the proposed rule. In addition, OSHA is mindful of Executive Order 12044's ("Improving Government Regulations," 43 FR 12661) encouragement of the fullest possible public participation in agency rulemakings. Consequently, OSHA has decided that in this instance it is appropriate to go beyond the minimal requirements of the APA by providing public hearings on this proposal.

Accordingly, pursuant to section 8 of the OSH Act and 4 of the APA, an opportunity to submit oral testimony concerning all the issues raised by the proposed rule of July 21, including any environmental and economic impacts, will be provided at informal public hearings scheduled to begin at 9:30 a.m. as follows:

1. December 5, 1978, New Department of Labor Auditorium, New Department of Labor Building, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

2. December 12, 1978, John C. Kluczynski, Federal Building, Conference Room 3619, 230 South Dearborn, Chicago, Ill. 60604.

3. December 15, 1978, Quality Inn, 2775 Van Ness, San Francisco, Calif. 94109.

OSHA witnesses will appear only at the Washington hearing. However, all testimony submitted prior to the hearing will be available at the Technical Data Center, Docket Office.

NOTICES OF INTENTION TO APPEAR

All persons desiring to participate at any of the hearings must file in quadruplicate a notice of intention to appear, postmarked on or before November 13, 1978, addressed to Mr. Kevin Conlon, OSHA Division of Consumer Affairs, Third Street and Constitution Avenue NW., Washington, D.C. 20210; telephone: 202-523-8024.

The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center Docket Office, Room S-6212, telephone 202-523-7895, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The city where the person intends to appear;

(4) The approximate amount of time requested for the presentation;

(5) The specific issues that will be addressed;

(6) A detailed statement of the position that will be taken with respect to each issue addressed; and

(7) Whether the person intends to submit documentary evidence, and if so, a brief summary of that evidence.

Persons who have not filed such notice will be permitted to present brief oral statements to the extent that time permits. Priority, however, will be given those who have previously filed a notice of intention to appear.

FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any person requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of his testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by November 22, 1978, and will be available for inspection and copying at the Technical Data Center, Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any person who has not substantially complied with this requirement may be limited to a 15-minute presentation and may be requested to return for questioning at a later time.

CONDUCT OF HEARINGS

The hearings will commence at 9:30 a.m. on December 5, 12, and 15, 1978 with a resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. The hearing will be conducted in as expeditious a manner as possible consistent with a full development of the record and the rights of the parties.

The hearing will be presided over by an administrative law judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any post-hearing comment period, the presiding administrative law judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a rule will be issued based on the entire record in this proceeding.

AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to section 8 of Occupational Safety and Health Act of 1970 (84 Stat. 1598, 29 U.S.C. 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 part 1911, notice of public hearings on the proposed rule on access to employee exposure and medical records is hereby given.

(Sec. 8, 84 Stat. 1598 (29 U.S.C. 657); Secretary of Labor's Order No. 8-76 (41 FR 25059); (5 U.S.C. 553)).

Signed at Washington, D.C., this 3d day of October 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-28303 Filed 10-5-78; 8:45 am]

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 223]

SALE AND DISPOSAL OF TIMBER

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes certain changes to the regulations in this part on the sale and disposal of timber. Several editorial changes are made to correct minor problems. Substantive changes would allow for shortening the advertising period for emergency or administrative use sales, and would eliminate the dollar limit on log sales not covered by export so that sales of logs under \$2,000 would no longer be exempt from the substitution restrictions. The shortened advertising period is allowed under the National Forest Management Act of 1976 (NFMA). The exemption of sales under \$2,000 from substitution restrictions is designed to relieve forest officers of the burden of surveillance of these categories of logs to determine their eligibility for exportation. Change is also made which would remove the authority to refuse awards to high bidders because of the infrequent use of that authority.

DATE: Comments must be received before December 5, 1978.

ADDRESS: Submit comments to: John R. McGuire, Chief, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be available for

public inspection in the Timber Management Staff, South Agriculture Building, Room 3207, Washington, D.C. during regular business hours.

FOR FURTHER INFORMATION CONTACT:

George Leonard or Peter Wagner, Timber Management Staff, Forest Service, Department of Agriculture, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: This is a proposal to revise 36 CFR 223, to make editorial changes or correct minor problems which developed from the rewrite of this part in 1977.

The first substantive change would allow the Chief or Regional Forester authority to shorten the advertising period for administrative use sales and emergency situations. This authority existed for administrative use sales prior to the passage of the National Forest Management Act of 1976 (NFMA). The NFMA expanded the authority to shorten the advertising period, but when the applicable regulations were promulgated, this authority was inadvertently deleted. The proposed change would replace and expand the old authority.

The second substantive change would remove the exemption of sales under \$2,000 from substitution restrictions. When the restrictions were first promulgated, these small sales were exempted because of the very minor volume and the unlikelihood that these logs would be suitable for export. This is still true; however, the existence of exempt logs has caused a significant surveillance problem. Forest officers are required to determine the individual sale from which each log originated in order to determine whether or not the logs were eligible for export. Under the proposed change, the determination could be limited to finding out if the logs originated from a National Forest.

The third substantive change would remove existing authority which allows the Chief to refuse award to a high bidder if he determines such award would be detrimental to local labor. This authority has been used only once since it was first granted (sometime prior to 1962). The need is therefore doubtful especially since oral bidding now allows local manufacturers to protect their timber supply. Further, the authority has been misinterpreted and is causing confusion among bidders.

All other changes either correct processing mistakes, update references, or remove conflicts. None are intended to change the basic intent.

The following changes are therefore proposed.

1. Section 223.1(e)(3) be revised to read:

§ 223.1 Authorization for sale and disposal of timber.

(e) ***

(3) Supervisors may designate portions or all of a National Forest as free-use areas where such action is compatible with land management plans and shall give public notice of their action. Within such free-use areas, any dead timber or any green timber previously marked or designated by forest officers may be cut and removed for personal use for domestic purposes. Cutting and removal of timber in free-use areas shall be in accordance with such rules as may be prescribed by the district ranger to prevent fires, minimize damage to uncut trees and other resources, and to avoid confusion among users. Similar material may be cut outside of a free-use area without permit in cases of emergency, but the person taking such material shall promptly notify the district ranger. Small quantities of material needed by transients while in the forest may also be taken without permit; subject to such rules as may be prescribed pursuant to § 261.70. In all other cases permits will be required for green material.

2. Section 223.5(b) be revised to read:

§ 223.5 Advertisement and bids.

(b) In emergency situations where prompt removal of timber included in a sale is essential to avoid deterioration or to minimize the likelihood of the spread of insects, the approving officer may authorize shortening the formal advertising period to not less than 7 days. In other emergency situations, or for timber sold under 36 CFR 223.1(b) the Regional Forester or Chief may authorize shortening the formal advertising period to not less than 7 days.

3. Section 223.7 be revised to read:

§ 223.7 Awards.

(a) Advertised timber will be awarded to the highest bidder upon satisfactory showing by him of ability to meet financial requirements and any other conditions of the sale offer unless:

(1) Determination is made to reject all bids.

(2) Two or more bidders, all of whom meet the requirements, submit equal bids which are the highest bids, in which case award may be by the drawing of lots. Equal bids from parties having direct or indirect common con-

trol or association in logging, processing or marketing may be consolidated to the extent deemed necessary by the awarding officer in order to give to any others who have bid the same amount an equitable opportunity in the drawing of lots.

(3) The highest bidder is notoriously or habitually careless with fire, or has failed to comply with the requirements of previous contracts for National Forest timber.

(4) Monopoly, injurious to the public welfare, would result from the control of large amounts of public or of public and private timber.

(5) The high bidder has elected Forest Service road construction in response to an advertisement extending such an option, the Forest Service cannot perform the construction and in response to solicitation has not received a satisfactory bid for such construction within the period stated in the advertisement and the high timber sale bidder is unwilling to perform the construction.

(b) Any bidder or applicant for a sale may be required to furnish a statement of his relation to other bidders or operators, including, if desired by the supervisor or Regional Forester, a certified statement of stockholders or members of the firm, and the holders of bonds, notes or other evidences of indebtedness, so far as known, so that the statement will show the extent of the interest of each in the bidder or applicant.

(c) If the highest bid is not accepted and the sale is still deemed desirable, all bids may be rejected and the timber readvertised; or, if the highest bidder cannot meet the requirements under which the timber was advertised or the withholding of award to him is based on one or more of paragraphs (a) (3), (4), and (5) of this section, award at the highest price bid may be offered to the next highest qualified bidder or to the other qualified bidders in order of their bids until the award is accepted by one or refused by all of the qualified bidders.

(d) If timber is advertised as set aside for competitive bidding by small business concerns, award will be made to the highest bidder who qualifies as a small business concern and who has not been determined by the Small Business Administration to be ineligible for preferential award of set-aside sales. If there are no qualified small business bidders any readvertisement shall be without restriction on the size of bidders.

(e) When necessary in the judgment of the approving officer, any applicant or bidder may be required to submit, before expense is incurred in acting on the application or before award is made in response to a bid, a satisfactory showing of financial ability and

bidder may be required to show that he has or can obtain equipment and supplies suitable for logging the timber and for meeting the resource protection provisions of the contract.

4. Section 223.10 be revised to read:

§ 223.10 Timber export and substitution restrictions.

(a) Unless restricted as provided in this section or unless it is determined by the Secretary of Agriculture that the supply of timber for local use is endangered, timber lawfully cut on any National Forest may be exported from the State where grown to any other State for processing. As used in this paragraph, "supply of timber for local use" means the supply of timber necessary for consumption by local users.

(44 Stat. 242, 16 U.S.C. 616)

(b) Unprocessed timber as defined in paragraph (c) of this section, purchased after March 8, 1974, from National Forest System lands located west of the 100th Meridian in the contiguous 48 States, may not be exported from the United States nor used as a substitute for timber from private lands exported by the purchaser. The above limitations on export and substitution do not apply to species of timber previously found to be surplus to domestic needs; or to additional species, grades, or quantities of timber found by the Secretary of Agriculture after public hearing to be surplus to domestic needs. As used in this section and as further defined in paragraph (d) of this section, "export" means either direct or indirect export and "purchaser" means the purchaser or his affiliates. "Private lands" means lands held or owned by a private person (individual, partnership, corporation, association, or other legal entity). Nonprivate lands include but are not limited to, lands held or owned by the United States, a State or political subdivision thereof, or other public agency, or lands held in trust by the United States for Indians.

(c) As used in this section, the term "unprocessed timber" shall mean any logs of species, quantities, or grades which have not been found surplus to domestic needs and having a net scale content not less than 33 1/2 percent of the gross volume in material meeting the peeler or sawmill requirements published in the January 1, 1978, official Log Scaling And Grading Rules used by West Coast Log Scaling and Grading Bureaus; cants to be subsequently remanufactured exceeding 8 1/2 inches in thickness; cants of any thickness reassembled into logs; and split or round bolts, or other roundwood not processed to standards and specifications suitable for end-product use. Unprocessed timber shall not mean pulp

(utility) grade logs and Douglas-fir special cull logs or timber processed into the following:

(1) Lumber and construction timbers, regardless of size, sawn on four sides;

(2) Chips, pulp, and pulp products;

(3) Green veneer and plywood;

(4) Poles and piling cut or treated for use as such;

(5) Cants cut for remanufacture, 8 1/2 inches in thickness or less.

(d) As used in this section, unprocessed timber, either from National Forest System lands or from private lands, is exported directly when exported by the National Forest timber purchaser, his subsidiary, subcontractor, parent company, or any other affiliate. Business entities are considered to be affiliates when one controls or has the power to control the other or when both are controlled directly or indirectly by a third entity. Timber is exported indirectly when export occurs as a result of a sale to another person or as a consequence of any subsequent transaction.

(e) As used in this section, substitution is the purchase of timber from National Forest System lands to be used as replacement for timber exported from private lands. Such replacement occurs when with respect to historic levels (1) the purchaser continues to export and increases his purchase of National Forest timber, or (2) the purchase of National Forest timber continues while the purchaser increases his export of unprocessed timber from private lands tributary to the plant for which National Forest timber covered by a specific contract is expected to be delivered. Historic level is defined as the purchase or export during 1974 or any subsequent calendar year of not to exceed 110 percent of the average annual volume purchased or exported in calendar years 1971, 1972, and 1973.

(f) To be eligible to bid on a sale of timber from National Forest System lands west of the 100th Meridian in the 48 contiguous States, a bidder must:

(1) Certify that purchase of the timber will not constitute substitution as defined in paragraph (e) of this section.

(2) Agree to furnish to the Forest Service, prior to beginning operations under the contract: the names and addresses of processing plants or other locations to which the timber is expected to be delivered; the names and advertised volumes of timber sales purchased by the purchaser for delivery to each such location in calendar years 1971, 1972, and 1973; the volumes of timber from private lands tributary to each location listed, exported by the purchaser in calendar years 1971, 1972, and 1973.

(3) Agree to furnish the information required by paragraph (f)(2) of this section to the Forest Service prior to log hauling to any location not included in the list required by paragraph (f) of this section.

(4) Agree to make available to the Forest Service, upon request, all of his records dealing with origin and destination of exported timber. For false certification the Forest Service may cancel the contract, debar the purchaser from bidding on Federal timber, and impose such other penalties as may be provided by law or regulation.

(g) Contracts for sales of unprocessed timber from National Forest System lands as described in paragraph (b) of this section, entered into after March 8, 1974, shall, with respect to the timber covered by said contracts, prohibit the purchaser from exporting said timber or selling it for export and from substituting said timber for timber which the purchaser has exported or sold for export from private lands, except that these limitations will not apply to species of timber previously found surplus to domestic needs and additional species, grades, or quantities of timber found by the Secretary of Agriculture, after public hearing to be surplus to domestic needs. Where appropriate, contracts shall include:

(1) Restrictions on the export of unprocessed timber or the use of said timber in substitution of timber exported from private land, including a provision that before the purchaser sells, exchanges, or otherwise disposes of the included timber restricted from export, the purchaser shall require his buyer, exchanger, or other recipient to enter into an agreement not to export unprocessed timber as defined in this section.

(2) Requirements for showing compliance with the timber export restrictions and exemptions and the restrictions against the purchaser using said timber in substitution for timber exported from private land.

(3) The quantities and species of unprocessed timber, if any, which may be exported.

(h) No additional species not previously determined to be surplus, specified quantities or grades of unprocessed timber may be sold for export as surplus to domestic needs unless: a public hearing is authorized by the Secretary of Agriculture and is held to seek advice and counsel as to the quantities, grades, and species of unprocessed timber, if any, surplus to the needs of domestic users and processors, and a determination is made by the Secretary of Agriculture that the specific quantities, grades, and species of unprocessed timber are surplus to the needs of domestic users and pro-

cessors. The Secretary of Agriculture shall give notice in the FEDERAL REGISTER of the quantities, grades, and species of unprocessed timber which are determined to be surplus. Hearings will be conducted in accordance with the following procedures:

(1) Notice will be published in a newspaper of general circulation within the area of the specific quantities, grades, and species under consideration at least 15 days prior to the hearings, and known parties or organizations with special interest in the quantities, grades, and species should be notified directly.

(2) The time, place, and conduct of the hearing will be coordinated with the Department of the Interior and held at a convenient, centralized location within the area of the specific quantities, grades, and species under consideration.

(3) The hearing record shall remain open for at least 5 calendar days following the hearing for receipt of additional written statements.

(i) Subject to the other provisions of this section, timber cut from the National Forests in the State of Alaska may not be exported from Alaska in the form of logs, cordwood, bolts, or other similar products necessitating primary manufacture elsewhere without prior consent of the Regional Forester. This requirement is determined to be necessary in order to assure the development and continued existence of adequate wood processing capacity in that State essential to the sustained utilization of timber from the National Forests located therein which is geographically isolated from other processing capacity. In determining whether consent will be given to the export of such timber, consideration will be given, among other things, to whether such export will (1) permit a more complete utilization of material on areas being logged primarily for products for local manufacture, (2) prevent loss or serious deterioration of logs unsalable locally because of an unforeseen loss of market, (3) permit the salvage of timber damaged by wind, insects, or fire, (4) bring into use a minor species of little importance to local industrial development, or (5) provide material required to meet urgent and unusual needs of the Nation.

(Sec. 301, 90 Stat. 1063, Pub. L. 94-373)

DAVID G. UNGER,
Deputy Assistant Secretary for
Conservation, Research, and
Education.

OCTOBER 3, 1978.

[FR Doc. 78-28360 Filed 10-5-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 0, 2, and 18]

[Docket No. 20718; FCC 78-656]

INDUSTRIAL, SCIENTIFIC AND MEDICAL EQUIPMENT

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Communications Commission is proposing to revise its regulations relating to industrial, scientific, and medical equipment to control the interference potential of microwave ovens, industrial heaters, and similar equipment. The revision is necessary because present regulations are not sufficient to protect radio communications. The proposed rules would reduce the interference potential of these devices and make enforcement easier.

DATES: Comments are requested by January 15, 1979, and reply comments are requested by February 15, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Art Wall or Herman Garlan, Office of Chief Engineer, FCC, 202-632-7095.

Adopted: September 19, 1978.

Released: September 29, 1978.

By the Commission: Commissioner Quello absent.

1. The Commission proposes herewith to revise part 18 of its rules governing the interference potential of microwave ovens, industrial heaters, and similar equipment coming under the heading of Industrial, Scientific, and Medical (hereinafter ISM) equipment. The first step in this proceeding was a notice of inquiry (NOI)¹ soliciting answers to a number of questions and inviting the public to participate in the formulation of new rules for ISM equipment. A list of the parties filing comments in response to the NOI is given in appendix A.² A summary of the comments received and our reasons for revising part 18 begins with paragraphs 15 and 35, respectively. The proposed rules are attached as appendix C. Examples of the radiofrequency (RF) emissions from various sources is presented in graph form in

¹ Notice of inquiry, adopted Mar. 9, 1976, FCC 76-221, 58 FCC 2d 636, 41 FR 11626.

² For convenience, the acronym listed beside the name of each commentator listed in appendix A will be used throughout this notice.

appendix B. Comments are hereby invited on all aspects of this proposal.

BACKGROUND

2. ISM equipment is a general term referring to equipments that generate and use RF energy to perform some work, such as heating, other than for communications. Included in this category of equipments are microwave ovens, high frequency heating equipments including RF plastic welders, RF stabilized arc welders, ultrasonic cleaners, and medical diathermy.

3. Microwave ovens are by far the most prolific of the ISM equipments, where " . . . industry sources estimated that there were about 1.5 million microwave ovens sold in the United States in 1976. . . . Some industry sources have projected that by 1980, four million microwave ovens will be produced in the United States and about one million imported." Also, "the market value of microwaves will then exceed the total market value of all other microwave equipment." Most home ovens operate in the ISM band at 2450 MHz with an output of less than 700 watts. A relatively small number of ovens operate in the ISM band at 915 MHz, but to our knowledge they are no longer in production. Other frequencies (5800, 10525, and 24125 MHz) are being considered by oven manufacturers with one manufacturer petitioning the Commission to make the band 10525 MHz available as an ISM band for microwave ovens.⁴

4. High frequency (HF) heating equipment is a general term which includes induction heating, dielectric heating, and microwave heating equipment. Members of the HF Heating Committee of the IEEE conservatively estimate " . . . that at least 75,000 kilowatts of high frequency dielectric heating power is being applied in industrial applications by at least 5,500 different equipments in the U.S.A. only." The Committee further states that "of the three basic HF industries, induction heating has probably 10 times the power of dielectric heating and 5 times the number of units of dielectric heaters installed so that the total kilowatts of power used in industrial high frequency heating exceeds the total kilowatts used for all communication purposes."⁵ Some of the larger industrial heating equipment, such as those used in the lumber industry range from 2.5 kW to 100 kW output.⁶

5. One type of dielectric heater, which is widely used by many industries throughout the U.S. is the RF Plastic Welder. Operating on frequen-

³ AHAM, page 1.

⁴ Petition, designated RM-2788, filed by Litton Microwave Cooking on Nov. 5, 1976.

⁵ HF Heating Committee, page 2.

⁶ Mann Russell, page 3.

cies between 10 MHz and 2450 MHz, such equipment is used to heat mold, cut, and form plastics and vinyl.⁷ According to one manufacturer *** "there are in use in the United States roughly six to eight thousand equipments of various sizes ranging from 100 watts of output to above 100 kilowatts producing a very wide variety of low-cost plastic products that otherwise would not be made available to the public."⁸

6. RF stabilized welders are machines that generate and use RF energy to initiate and stabilize the arc for welding nonferrous metals. In a RF welder the common source of RF energy is a spark gap oscillator because of its ruggedness and simplicity in design and construction. Furthermore, its broadband characteristics—emissions extending over a broad band of frequencies, commonly from 1 to 30 MHz—is insurance that a random change in circuit constants or welding conditions will have little effect on the RF energy available for excitation. Unfortunately, this same ideal source of RF energy for welders is also a prolific source of radiation and a potential source of interference. Such welders ranging in size from 3'x3'x3' to 20'x20'x100' are extensively used in the aerospace industry.⁹

7. Ultrasonic cleaners use sound energy to vibrate loose dirt and other imbedded particles from dirty tools and equipment. The mechanical vibrations (sound) are produced by feeding RF energy to a transducer—a device that converts electrical energy to mechanical energy or vice versa. (A common example of a transducer is the speaker.) Present day cleaners operate in above audible range of 20 kHz to several megahertz and have a power output ranging from a few watts to several thousand watts depending on the application. These ISM equipments are used in both industrial and medical applications. Other ultrasonic devices use sound energy for diagnostic and therapeutic purposes.

8. Medical Diathermy are therapeutic machines used by the medical profession to apply heat to a selected area of the body. The rapidly varying alternating fields increased the number of molecular collisions which in turn results in a heating effect. Most present day diathermy equipment operate on one of three frequencies 13.56 MHz, 27.12 MHz and 2450 MHz. This is the same process that occurs in a microwave oven. Electrosurgical units (ESU), a special class of diathermy equipment, use RF energy to cut and cauterize blood vessels and tissue during surgical procedures. Many of these use a spark gap type oscillator

producing a broadband emission in the range of 1 to 10 MHz.

9. Inasmuch as we are concerned about all ISM equipment—present and new—the Commission will also consider comments about any new equipment being developed. For example, we are aware of the development of at least two new consumer ISM products—induction heating range and RF excited light bulb. As we understand it, the range, unlike the conventional cooking range, heats only the metal pot, not the cooking surface. RF energy is used to induce eddy currents to flow in a metal pan placed over the cooking surface, which in turn heats the pan and its contents—not the surface. The RF excited light bulb which uses RF energy to excite a gas in the bulb to produce illumination, is intended according to our understanding to be screwed or fitted into the present standard incandescent light bulb socket. The primary advantage of this bulb is its efficiency, which is several times better than the present incandescent bulb. Whether these devices are ultimately successful and widely accepted remains to be seen, but in any case, we believe new equipments like these should be considered in this rewrite of part 18.

10. In each of these equipments RF energy is generated by an oscillator in much the same way RF energy is produced in a transmitter. The only difference between the two is what is done with the RF energy after it is produced. In a transmitter intelligence is added and the signal is radiated into space through an antenna. In ISM equipment, the RF energy is used to do work, ionize a gas or heat food, for example. With the exception of microwave ISM equipments, RF stabilized arc welders and electrosurgical units (ESU), emissions from ISM equipments are essentially continuous wave (CW) in nature. For most ISM equipment there is very little attempt to suppress the harmonic (multiples of the fundamental operating frequency) frequencies as can be seen from the first seven graphs in appendix D. Ideally ISM equipments are not supposed to radiate RF energy (radiated energy actually represents a loss of power in the system) but unless proper precautions (shielding, filtering, etc.) are taken sufficient radiowaves are radiated into space and therefore have the inherent possibility of causing interference to radio communications.

11. Before 1948, ISM equipments were a major source of interference to radio-communications. Although the present ISM rules have gone a long way in reducing that interference, they are no longer considered adequate to protect communication systems for the reasons discussed below.

PRESENT RULES FOR ISM EQUIPMENTS

12. The Federal Communications Commission, under the Communications Act of 1934, as amended, is charged with the responsibility of managing the non-U.S. Government use of radio. Soon after the act was passed into law, it became apparent that other devices, beside transmitters, such as industrial heaters radiate and thereby can and do interfere with legitimate radio communications. Hence, our primary concern with ISM equipment is its effect on radio communications. Other aspects of ISM equipment, e.g., potential health hazards from nonionizing radiation, come under the jurisdiction of other Government agencies and, in some instances, are subject to additional regulations. For instance, domestic microwave ovens must comply with FCC specifications¹⁰ to protect against radio-frequency interference (hereinafter RFI) in addition to regulations promulgated by the Department of Health, Education, and Welfare to protect against possible health hazards of microwave radiation. We might add at this point that in instances where there are different Government regulations for the same equipment, FCC approval will be subject to the equipment complying with all applicable specifications imposed by other U.S. Government agencies.

13. The present part 18 rules, which were adopted in 1948 and essentially have remained unchanged, permit operation of ISM equipment without an individual license,¹¹ provided the equipment complies with both the technical and administrative requirements in part 18, and provided further that it does not cause harmful interference to radio communications. This regulatory approach will not change with the proposed rules.

14. Part 18 permits unlimited radiation for any emission from ISM equipment that lies within the seven bands allocated for that purpose.¹² The ISM bands, as they are called, are both national and international allocations. ISM emissions that lie outside these bands are required to be limited. Although the level in the present part 18 varies depending on how the equipment is classified, the two most commonly used limits for out of band emissions are:

10 microvolts per meter measured at 1 mile for industrial heaters.

25 microvolts per meter measured at 1,000 feet for medical diathermy and miscellaneous ISM equipment.¹³

¹⁰47 CFR 18.1(b)(1).

¹¹47 CFR 18.13; section 18.100 of appendix C.

¹²The present technical requirements for ISM equipment are contained in the proposed rules in subpart C of part 18 in appendix C.

⁷SPI, page 2.

⁸Solidyne, page 2.

⁹AFTRCC, p. 1 of appendix.

Equipment approvals are mandatory for most ISM equipment. With the exception of ultrasonic equipment there is no limit on the level of radio frequency voltage feed back into the power lines to which the equipment is connected.

COMMENTS IN RESPONSE TO THE NOI

15. As stated, the notice of inquiry in this proceeding invited the public to assist the Commission in formulating new rules to control the interference potential of ISM equipment. This was done by soliciting answers to a number of questions addressing technical specifications, test methods, equipment authorization and administrative procedures, screened enclosures, interference control and the FAA study.¹³ With a few notable exceptions, the comments received mainly expressed the interests of ISM manufacturers who unfortunately did not take full advantage of the opportunity to assist the Commission in formulating new ISM rules. Moreover, individuals who were expected to comment, did not. For example, communication users, who have in the past voiced the strongest complaints about the overly liberal present limits for ISM equipment were strangely silent.

16. With the exception of HEW, the parties filing comments were either users or manufacturers of ISM equipment, who naturally would oppose changes to the present ISM rules. Many of the commentators either explicitly stated or implied that they saw no reason why the Commission should change the present ISM rules, except for some minor administrative changes. Internationally many administrations have incorporated recommendations made by CISPR to control the interference potential of ISM equipment.¹⁴ The Canadian Standards Association is also circulating draft proposals modelled after the CISPR recommendations. In the NOI, we asked for comments (questions 6 and 7) regarding the feasibility of adoption of the international standard. The comments were inconclusive. Basically, manufacturers exporting equipment favored such adoption; whereas, those whose market is only in the U.S.A. opposed this. A summary of the comments follows.

¹³ See paragraph 26 of NOI, in this proceeding.

¹⁴ CISPR is the acronym for Comité International Spécial des Perturbations Radioélectriques (International Special Committee on Radio Interference). The CISPR recommendation for limits and measurement procedures is contained in CISPR Publication 11 (1975): Limits and Methods of Measurement of Radiofrequency Interference Characteristics of Industrial, Scientific and Medical (ISM) Equipment. This publication is available from American National Standards Institute Inc., 1430 Broadway, New York, N.Y., 10018 at a cost of \$27.25.

17. AHAM, an association of home appliance manufacturers, and manufacturers Litton, Amana, Panasonic and Toshiba restricted their comments to matters relating to microwave ovens. AHAM took the approach that the microwave oven industry is new and "when the new rules are written they should be framed so as to encourage development of the microwave oven industry".¹⁵ AHAM concludes that the basic requirement should be that microwave ovens operate so as to stay in the ISM band and that any spurious outside band should not cause harmful interference. AHAM opposes FCC adoption of the CISPR recommendations for ovens on the grounds that the CISPR instrumentation is not available in this country and that peak or quasi-peak measurements are not a good measure of the interference potential of ovens to communications systems.¹⁶ Both Litton and Amana supported the comments submitted by AHAM. Panasonic and Toshiba on the other hand support adoption of a single standard with Panasonic stating that the single standard should coincide with the CISPR recommendations for microwave equipment. With respect to equipment authorizations, AHAM recommends that the present type approval requirement, where the FCC tests production samples for compliance, be replaced with certification.¹⁷

18. As previously stated, most present day domestic microwave ovens operate in the ISM band at 2450 MHz. Both AHAM and Litton indicate that oven manufacturers are now investigating other frequencies for microwave cooking. In particular, Litton stated they are looking at the frequency 10,525 MHz as well as the ISM bands at 915 MHz, 5800 MHz and 24,125 MHz. Litton has since filed a petition for rulemaking (RM-2788) requesting the Commission to make 10,675 MHz band available for the use of microwave ovens. The firm also requested the USA to recommend that the bands 915 MHz and 10,525 MHz be allocated for ISM equipment on a worldwide basis.

19. Raytheon, a major supplier of microwave processing equipment for industrial applications in the food processing, foundry and rubber industries, manufacture microwave ISM equipment that operates in the ISM Bands At 915 MHz and 2450 MHz with the

¹⁵ AHAM p. 10.

¹⁶ It is unclear why AHAM and Litton are objecting to the use of the CISPR instrumentation since the CISPR field strength meter is not recommended for measuring microwave ISM equipment operating above 1 GHz. A spectrum analyzer is the recommended test equipment for tests above 1 GHz.

¹⁷ See par. 40, below for a discussion of the FCC equipment authorization program.

output powers ranging from 10 to 75 kW per system. For such equipment operating with a power output of less than 500 watts, Raytheon recommends a single maximum radiated limit of 2500 microvolts per meter measured at a distance of 10 feet. For ISM equipment with output powers above 500 watts, the maximum radiated field may increase by the square root of the ratio of the generated power to 500 watts up to a maximum of 5300 microvolts per meter at 10 feet.¹⁸ The firm said the specification is based on economics, the present noninterference provisions section 18.120-18.121 and the environment in which such equipment is normally operated, which Raytheon asserts and industrial areas located away from residential areas.

20. The firm opposes adoption of the CISPR recommendations for ISM equipment on the grounds that the CISPR limit, which specifies an instrument having a quasi-peak detector is not representative of the interference potential of ISM equipment to modern communication systems, which Raytheon asserts is more fundamentally predictable on the basis of an average or rms detector. Specifications requiring CISPR instrumentation would require a substantial investment in new equipment to test ISM equipment, which Raytheon claims poses an unnecessary burden on ISM manufacturers and users in the United States. Specifications for line conducted emissions are also unnecessary for ISM equipment according to Raytheon because of the environment in which ISM equipment is normally operated and because there are no documented cases of interference.

21. Manufacturers Solidyne, Mann-Russell, Lepel and SPI and the HF Heating Committee representing manufacturers and users submitted comments on the matters relating to industrial heaters. With the exception of Solidyne, each participant essentially requested little or no change in the present technical specifications and filed statements opposing adoption of the CISPR recommendations for ISM equipments on the grounds that the quasi-peak detector in the test instrument recommended by CISPR had less relevance than the average or peak detectors. Both Mann-Russell and SPI question the need for tighter specifications and line conducted limits for industrial heating equipment. All three manufacturers and both SPI and the HF Heating Committee recommend some changes in the present test procedures for industrial equipment. SPI requests simplifi-

¹⁸ The recommendation is the same as the present limit for medical diathermy equipment when an inverse distant relationship is used to extrapolate the field from 1,000 feet to 10 feet.

cation of the present equipment authorization procedures in line with the procedures now in force for prototype certification of ISM equipment.

22. The HF Heating Committee also makes the point that " * * * " additional, or more restrictive rules will not guarantee the prevention of interference. It is an unfortunate fact that there exists in these United States a certain element whose selfish interests causes it to attempt to avoid compliance with regulations of proper governmental bodies. This element of our society will not heed further restrictive rules any more than they heed present ones. Enforcement seems to be the only tool available to society for this problem. Meanwhile the public right to the products made available or less costly by high frequency heating should not be removed by restrictions which will stifle use of presently installed equipment or the development of new machines and processes which will benefit mankind. We are confident the Commission agrees with the principle."¹⁹

23. Solidyne, a corporation with domestic and International Divisions, claims to have manufactured 60 to 75 percent of the heat sealing now in operation in the United States. In their comments on such equipment Solidyne takes a position that is the reverse of that taken by other industrial heater manufacturers. Solidyne supports adoption of the CISPR recommendations for ISM equipment on the grounds that they are technically and economically feasible. The firm remarks:

Heat sealing is being done within CISPR radiation limits on a large scale in European countries. We have studied the engineering problems involved and we feel the redesign of presently made American equipment will not be prohibitively expensive and the production costs will be only moderately higher than at present. Most of the new equipment will be operated on the assigned frequency bands, thereby drastically reducing noise pollution due to radiation from the fundamental operating frequency. Because harmonics are much better controlled, there will be a much lower level of pollution from that source. Because most equipments will operate on the assigned bands, anything not on these bands immediately becomes suspect, so that inspection and policing is easier.

Some equipments cannot operate on the assigned bands, by reason of the size of the electrodes or the heatability of the material being processed. In that case, self-shielding of equipment or operation in a screen room is required. For both of these methods, it is possible to meet CISPR radiation limits; the cost will be moderately above costs incurred for present FCC limits, but certainly not economically prohibitive. In some cases it is thought that uniform voltages are not attainable on assigned bands and that lower frequencies must be used. However, there are techniques available to equalize voltages

for uniform heating on assigned bands. Again, the cost is somewhat higher, but not unreasonable.²⁰

24. Solidyne, Litton, Mann-Russell and AHAM requested widening the present ISM bands, particularly at 13 MHz and 40 MHz; or adding additional ISM bands for a number of reasons, but largely because the present bands are not considered adequate. Requests for additional frequency allocations are outside the scope of this proceeding and cannot be considered here. Individuals wishing to change the present national frequency allocations are advised to file a separate petition for rule making with the Commission in accordance with the procedures in part 1 of FCC rules. Individuals wishing to change worldwide frequency allocations should be participating in the proceeding in FCC docket No. 20271 which is developing U.S. proposals to be presented at the next World Administrative Radio Conference (WARC) in 1979.²¹

25. Branson, a manufacturer of ultrasonic equipment and the Ultrasonic Industries Association (UIA) submitted actual proposals for ultrasonic equipment. Both parties recommended a conducted limit of 0.1 volts rms, instead of the present limit of 1,000 microvolts at frequencies up to 490 kHz, with a minimum measurement frequency of 150 kHz, instead of the present 10 kHz. The proposed change, says Branson, will ease the economic impact, manifest under the present specification and would encourage industry compliance with FCC regulation. In support of this, Branson stated:

The cost of providing a filter network to reduce conducted radio frequency voltage to a value within the presently prescribed limits of 1,000 microvolts at frequencies up to 490 kilohertz and 200 microvolts at frequencies above 490 kilohertz is substantial. So much so that many, if not most, of the manufacturers of small ultrasonic cleaning systems, for example, introduce ISM equipment into commerce which does not meet the present FCC regulations concerning conducted noise. The proposed less restrictive specification will undoubtedly result in the allowance of the use of less expensive filters, thereby lessening the economic impact of the regulations upon industry while concurrently encouraging greater industrywide compliance.²²

26. Alternatively, if the first proposal is not acceptable, Branson offered the following proposal:

The FCC should adopt new standards for conducted interference as recommended by the CISPR, which standards are being adopted in Europe and Canada.²³ By con-

²⁰ Solidyne, pp. 3 and 4.

²¹ See Sixth, Seventh and Eighth notice of inquiry in FCC docket 20271.

²² Branson, p. 2.

²³ The Canadian Standards Association is presently circulating a draft standard for

forming United States standards to an international uniform standard, the flow of goods from the United States to these countries will be greatly increased. Moreover, manufacturers will no longer be required to maintain two inventories, one for United States consumption and the other for European consumption.²⁴

Furthermore, the firm recommends measurements to be made at a standard test site with a standard line impedance stabilization network (LISN) for the CISPR standard to assure repeatability of results. Such a standard would provide insurance that U.S. goods are shipped in international commerce without contravening radiation specifications of other countries, says Branson.

27. With respect to responsibility for compliance, Branson states: "When the equipment is an assemblage of components, the generator manufacturer should be held responsible for obtaining an equipment authorization for the generator for use under specified operating conditions. The person assembling the components should then be held responsible for complying with the generator manufacturer's installation and operating instructions."²⁵ For ultrasonic equipment operating on a frequency below 100 kHz, both Branson and UIA, recommended that only conducted interference data be sent to the Commission to show proof of compliance, since experience has shown that such equipment which complies with the conducted limit can also be expected to comply with radiation limit. Consequently, they argue that radiation test data is only necessary for equipment operating on a frequency above 100 kHz.

28. IBM, primarily a user of ISM equipment but also a fabricator of special purpose ISM machines that cannot be purchased, endorsed the need " * * * "for reasonable technical standards for the operation of ISM equipment in order to minimize the possibility of such equipment causing harmful interference to authorized radio communication service, polluting the radio spectrum and having adverse effects on other electronic equipment."²⁶ However, IBM urged that the limits and methods of measurements be founded on a sound technical basis similar to those studies included in the FAA reports,²⁷ the CBEMA proposal for data processing equipment²⁸ and

ISM equipment that includes the recommendations in CISPR Publication 11.

²⁴ Branson, p. 7.

²⁵ Branson, p. 7.

²⁶ IBM, p. 1.

²⁷ See par. 26 of the NOI in this proceeding.

²⁸ In response to the notice of proposed rulemaking in FCC docket 20780, the Computer and Business Equipment Manufacturers Association filed a report, CBEMA/ESC5/77/29, titled: "Limits and Methods of Measurements."

Footnotes continued on next page

¹⁹ HF Heating Committee, p. 9.

to a limited extent the CISPR recommendations. With respect to CISPR, IBM stated that they applaud *** "the detailed technical treatment of many of the considerations for controlling ISM electromagnetic interference and support adoption by the FCC of certain of these recommendations; however, IBM cannot endorse the entire program recommended in CISPR Publication 11." The principal reasons given by IBM for this position are:²⁹

(1) CISPR limits are designed to protect frequency assignment in region 1 of the World (Europe, Africa and the USSR);

(2) CISPR instrumentations based on their investigations would place an overly stringent requirement on ISM equipment having broadband emission characteristics; and

(3) The LISN recommended by CISPR Publication No. 11 for measuring RF line conducted voltage from ISM equipment with current output less than 25 amps is not representative of U.S. power line impedance and therefore would produce results of questionable validity.

29. With respect to test procedures, the computer firm supports revising the present procedures in part 18 to eliminate what they allege are unnecessarily complicated and time consuming testing practices and replacing it with a single unified procedure for all ISM equipment. Moreover, they state that clause 5 of CISPR Publication 11, "Method of Measurement", can be used as the structure and scope of such a standard. However, the following modifications are recommended:

Define the limits at 30 meters, but permit tests at shorter distances (e.g., 3 or 10 meters) using acceptable propagation models.

(2) A 50 ohm/50 microhenry LISN network for measuring conducting RF voltage from all ISM equipment having power requirements of 100 amperes or less.³⁰

30. IBM agrees with the Commission that the manufacturer of discrete items should be required to obtain an equipment authorization for his products; however, in the case where the equipment is an assembly of components the individual marketing the components should be responsible for obtaining FCC approval.

31. AFTRCC, a council representing the aerospace manufacturing industry, one of the principal users of ISM equipment, including radio frequency stabilized arc welders filed comments that not only opposed the CISPR recommendations for ISM equipment, but questioned the need for tightening the specifications for ISM equipment. Second, in view of the portable nature of RF Welding, AFTRCC, "strongly

urged the Commission to adopt a 'Yard' or 'Premises' approach—a concept which appears to be within the contemplation of the CISPR regulation and which was put forward for Commission consideration by AFTRCC some 10 years ago."^{31 32}

32. RCA, a user of ISM equipment, filed comments supporting . . . "a single standard for industrially-used equipment based on the current radiation limit for industrial heating equipment."³³ Different limits for different industrial equipment is difficult to justify from a technical point of view, says the firm. For equipment used by the general population, RCA states that a conducted interference limit of the RF voltage fed back into the power lines is most appropriate. But it should not apply to equipment in a large industrial location, since power line distribution transformers used at such locations provided a natural form of isolation. For ISM equipment consisting of a number of components that must be assembled at the installation site, RCA recommended the following:

(1) Any technical standards adopted should apply to the RF generator alone. (2) For the purposes of equipment approval, the manufacturer should be required to adequately specify the configurations, uses, or attachments for or with which an RF generator will continue to meet the equipment authorization. For example, under the rules for prototype certification, the manufacturer should specify the maximum limits of coil size, lead length, other appropriate operating restrictions and operating conditions. (3) The manufacturer should specify the radiation actually measured at the proper certification distance. Thus providing the user with information about the limits of proper operating conditions.³⁴

33. In a letter stating that they were the largest American manufacturer of short wave diathermy and possibility in the world, Mettler expressed deep concern with any Part 18 revision, especially if patterned after CISPR recommendations. Mettler claims that the international standards has virtually eliminated their units from the European market. No details or information of the equipment are furnished to support this claim.

34. While Mettler is concerned about tighter limits for medical equipment, FDA, on the other hand is concerned about the problem of conducted and radiated interference in the hospital. Sensitive medical equipment either malfunctions or doesn't function at all due to the high level of radio noise in

many hospitals. Because of this problem, FDA is proposing a susceptibility standard which would require equipment used in a hospital to be able to accept a certain amount of RF noise and continue to operate normally. Since ISM equipment, particularly medical diathermy and electrosurgical units produce the highest levels of RF noise in the hospital, FDA said that the proposed susceptibility levels could be reduced if the ISM limits are reduced. The proposed susceptibility standard is based on the present hospital ambient levels according to the agency. Reducing the ISM limits could result in lower ambient levels which could reduce the technical burden and associated costs of sensitive hospital instrumentation.

REASONS FOR REVISING PART 18

35. The following is a list of the more important reasons for revising part 18. An elaboration of each is presented in subsequent paragraphs.

(a) ISM equipment is considered to be the largest source of manmade radio noise.

(b) Present limits are inadequate to protect future communication needs. ISM limits are out of line with limits for other equipment.

(c) Requests for tighter limits have been made.

(d) Present ISM specifications are much more liberal than those imposed by other administrations.

(e) Present equipment approval procedure requires clarification.

(f) Responsibility for compliance requires clarification.

(g) Present test procedures are inadequate.

(h) Present equipment classifications are difficult to apply.

36. As previously discussed, some ISM equipment generated and use tens of thousands of RF watts,³⁵ which means that unless such energy is contained, it is radiated into space and conducted/radiated from power lines. Consequently, ISM equipment is and always has been a major contributor to the manmade radio noise problem. Our emphasis in controlling RFI has been not to eliminate radiated emissions from equipment—a desirable but economically unacceptable (and probably an unnecessary) solution—but to keep the number of instances of harmful interference down to an enforceable level. We feel this approach is justified because it takes into account the environment in which the equipment is operated.

37. In general most of the commentators, agreed with the above approach. Most quickly point to the fact that the record for ISM equipment has been relatively good, since the number of documented cases where ISM equip-

Footnotes continued from last page
surements of Electromagnetic Emanations from Electronic Data Processing and Office Equipment".

²⁹ Ibid., pp. 5-7.

³⁰ Ibid., pp. 8 and 9.

³¹ AFTRCC, pp. 4-5.

³² AFTRCC comments in the Commission Third notice of proposed rulemaking in FCC docket No. 11467. This proceeding, which has never been resolved, will be terminated by a separate order and the issue of how to regulate the interference potential of RF Arc Welders will be considered herein.

³³ RCA, pp. 2 and 3.

³⁵ See pars. 21-24, above.

ment was identified as the source is now relatively small. However, this evidence is misleading, at best, for the following reasons:

(1) Most ISM equipment manufacturers have learned from experience to produce equipment to operate on those frequencies where the potential of receiving a compliant is least probable.

(2) For every documented interference complaint where ISM equipment is identified as the source of interference, there are many more instances where the source is never identified. The reasons for this are numerous. Among other things, emissions from ISM equipment are difficult to identify and locate, so much so that unless a communication service is deemed completely unusable, the source is left unidentified and never located.

(3) In the past, most ISM equipment were operated in large industrial environments where the probability for interference was small. This separation of the ISM equipment and communication user is changing for a number of reasons. First, some ISM equipment, e.g., domestic microwave ovens, are consumer products that are or will be used throughout the country.³⁶ Second, more and more people, most of whom expect reliable communications are living closer to industrial complexes. Lastly, all manmade radio noise adds to the ambient backgrounds of radio noise which in a complex manner decreases the use and reuse of the radio spectrum for communication.³⁷

38. The graphs in appendix B show the radiated emissions in microvolts per meter at some distance from a number of ISM equipments installed and tested by the respective manufacturer. The data for these graphs was taken from the report of measurements filed by each manufacturer to support their application for prototype certification. No attempt was made to convert the filed data to field strength at a standard distance for purposes of making comparisons, since there is some disagreement about how the value should be extrapolated. We did not want to get into this argument. The graphs are included to show the number of emissions and relative level of each emission from ISM equipment. Emissions above the tenth harmonic (10 times the fundamental operating frequency) is not shown, because tests

above the tenth harmonic are not required. Note, also, that a harmonic of two equipments was higher than or equal to the level at the fundamental operating frequency. Each emission has the potential for interfering with radio communications and does interfere if the conditions (e.g., location, frequency, relative level of emission compared to desired signal) are right.

39. Two Government agencies, FDA and FAA, have indicated a desire to have tighter technical specifications for ISM equipment. The Electromagnetic Compatibility Analysis Center in their contract report to FAA³⁸ requested tighter technical specifications for emissions that lie within the aeronautical navigation and communication frequency bands of 108-136 MHz. FDA comments that more restrictive technical specifications for ISM equipment—the greatest offender of RFI in the hospital—would reduce the burden of severe susceptibility standards for electronic equipment used in a hospital.³⁹ In addition, several NATO (North Atlantic Treaty Organization) countries have informally requested tighter technical specifications for ISM equipment. Moreover, many countries have already adopted the tighter technical specifications recommended by CISPR in publication No. 11, as noted above by Solidyne and Branson.⁴⁰

40. At present, there are four types of FCC equipment approvals. Type approval, type acceptance, and certification apply to RF devices including ISM equipment. The fourth procedure, registration of telephone terminal equipment applies only to equipment interconnected to the telephone network and is of no concern in the present rulemaking. Type approval is an equipment authorization granted by the Commission based on measurements made on a sample device by the FCC Laboratory. Certification and type acceptance are based on representations and test data submitted by the applicant and are considered representative of similarly produced units. The only difference between certification and type acceptance is the type of equipment they apply to—the latter applies to licensed transmitters, whereas certification is required for devices that operate without an individual license under parts 15 and 18 of the rules.⁴¹

41. In part 18, the terms prototype and onsite certification are also used. Prototype certification is the same as certification described above. Onsite certification, as the name infers, means that the equipment is tested and found to comply at that one loca-

tion. Onsite certification does not carry the implication, as does certification, or prototype certification, that similarly manufactured equipment installed at a different location can be expected to comply.

42. Contrary to intention of the marketing rules of placing some responsibility for compliance on the manufacturer, the present ISM rules permits a manufacturer in some instances, to choose between the three equipment authorizations: Type approval, prototype certification or onsite certification. For example, manufacturers of ultrasonic equipment now have the option of choosing between type approval or prototype certification, or, he may elect to sell the equipment and let the purchaser worry about certifying the equipment. Under these conditions it is not possible to determine who has the responsibility for assuring compliance—the manufacturer or the purchaser. As a result, there are some individuals (either informed or uninformed), who are not adhering to any minimum technical specifications, as so clearly stated by UIA and Branson and several other commentators. The proposed rules are intended to clarify this responsibility in line with the present equipment authorization rules for other equipment in subpart J of part 2 of FCC rules.

43. A major area of concern and one which has long needed clarification is the procedure for assuring compliance of ISM equipment. Under section 302 of the Communications Act, and the subsequent marketing, equipment authorization and import rules in Subparts I, J, and K of part 2 of FCC rules,⁴² the Commission imposes an equipment authorization requirement on the manufacturer as a precondition for marketing in order to provide some assurance that equipment placed into operation can be expected to comply with the applicable technical specifications. The rules are based on the consideration that it is much easier to control a device with an interference potential at the manufacturing level than it is to tell a purchaser that his device is causing interference and that he must stop using it until the interference is corrected. Moreover, it is far less expensive to incorporate interference controls into a device at the design stage than to try and fix an interference problem once it is discovered and identified, which in itself presents costly manhours in searching for unidentified emissions. Up to now, ex-

³⁶ See Par. 3 above.

³⁷ Problems associated with manmade radio noise are widely published. Two of the more quoted examples are: (a) Spaulding, A. D., "Manmade Noise: The Problem and Recommended Steps Toward Solution", Office of Telecommunications, Report No. 76-85. (b) JTAC (1968), "Spectrum Engineering: The Key to Progress", Joint Technical Advisory Committee, 345 East 47th Street, New York, N.Y. 10017.

³⁸ See par. 26 of NOI, of this proceeding.

³⁹ See par. 34 above.

⁴⁰ See par. 26 above.

⁴¹ 47 CFR 2.901-2.908.

⁴² 47 U.S.C. 302, Pub. L. 90-379, approved July 5, 1978, 82 Stat. 290. Subpart I of part 2, adopted May 18, 1970, FCC docket 18426, 23 FCC 2d 79. Subpart J of part 2, adopted February 6, 1974, FCC docket 19356, 39 FR 5912. Vol. 45, FCC 2d 52 (FCC 74-113). Subpart K of part 2, report and order adopted December 10, 1975, docket 20194, vol. 59, FCC 2d 1083 (FCC 75-1352).

ceptions have been made in the marketing rules for ISM equipment until such time as the problem could be considered in total. Several of the commentators stated that they would like to see the exemptions continue but they failed to adequately justify why ISM equipment should be exempt from the marketing rules while other equipment with far less RFI potential is subject to those rules.

44. To assure compliance with our technical specifications, equipment must be measured in a prescribed manner. The present test procedures in part 18, are not considered adequate, as stated in some of the comments to the NOI, for measuring RFI from ISM equipment. Too much room is left to interpretations, which means the maximum level of emissions is sometimes left undetected. As a result, the data may not be meaningful or reproducible. And from a regulatory point of view test results must be reproducible.

45. An example of a problem with the present test procedures in part 18 is the requirement in §18.107 to make field strength measurements along a specified number of radials from the source. The procedure for making measurements is satisfactory for industrial heaters operating below, say 490 kHz. However, it is much less applicable for high frequency (HF) (3 to 30 MHz) devices now used for plastic preform heating and far less satisfactory for microwave heaters and ovens. Leakage radiation patterns from HF and microwave devices are by nature directional; much more so than from devices operating at lower frequencies. The present test methods in part 18 were written in 1947 for devices operating at lower frequencies. At higher frequencies care needs to be taken to assure that measurements on a given frequency are made in the direction in which leakage radiation is greatest.

46. Another problem with the present test methods in part 18 concerns the effect of the load on the radiation patterns from the equipment. The load is the dielectric or other material being heated or changed with the application of RF energy. In many ISM equipments, the load is designed to be in the plate circuit of the RF oscillator. When the material is heated its dielectric constant is changed resulting in a frequency shift, unless there is a frequency compensating network in the equipment. This in turn changes the radiation characteristic of the equipment. This affect is not considered in the present test methods in part 18. To overcome this difficulty we are proposing the equipment be measured with the kind of applicators or work fixtures to be used with the equipment containing both the largest and smallest expected loads. In cases where this is not practical, we will con-

sider the use of dummy loads when such a load can be expected to develop interference conditions reasonably similar to those expected in actual operation. The measurement problem has been a source of concern that we are addressing in the proposal by prescribing measurement procedures for a number of different classes of equipment.

FCC PROPOSAL

47. The proposed rules are set in appendix C. The following is a list of some of the more important points of the proposed rules followed by a brief discussion of each item in subsequent paragraphs.

(a) Technical specifications and test procedures are modeled after CISPR recommendations for ISM equipment.

(b) Test procedures set out in detail in OCE bulletins.

(c) CISPR instrumentation is recommended but not required.

(d) Administrative provisions are clarified and consolidated.

(e) Certification and ISM-registration will replace all existing FCC approvals for ISM equipment.

(f) ISM-registration (similar to on-site certification) will be permitted only for equipment that cannot be tested on an approved test site.

(g) Responsibility for obtaining ISM-registration is placed on the RF generator supplier.

(h) Effective date of new rules is 18 months after adoption of final rules in this proceeding.

48. For the same reasons given by IBM, Solidyne and Branson, we are proposing to model the new ISM rules after the recommendations in CISPR publication No. 11.⁴³ As already mentioned, CISPR recommendations are internationally agreed upon standards having a sound technical basis, even though there is some disagreement whether they should be used in the U.S.A.

49. CISPR's recommendations are designed to reduce the interference potential of all types of electrical equipment, including ISM equipment. Besides the fact that they have international agreement, many foreign administrations have or are in the process of adopting the CISPR recommendations for ISM equipment as their national regulation. As a result U.S. manufacturers are finding that they are at disadvantage when they try to market their products abroad. Because of this a manufacturer wishing to market ISM equipment in another country is faced with making extensive modifications to his equipment in order that it can comply with foreign specifications which in most cases follow CISPR recommendations. The cost of incorporating RFI suppression into the design of equipment is far less expensive than adding suppression

after the equipment has been built. Because of this, some manufacturers have gone to the expense of developing two equipments—one for the U.S. market and a second for the international market.⁴⁴

50. In view of objections raised by IBM and others the following changes to the CISPR recommendations are proposed:

(a) The CISPR field strength meter is recommended, but not mandatory for testing ISM equipment.

(b) The CISPR recommendation for measurements at 100 meter distance is not included in the FCC proposal.

(c) The proposed radiation limit and test procedure for ISM equipment operating on a frequency above 1,000 MHz differs from the CISPR recommendation.

(d) Test procedures are set out in OCE Bulletins.

(e) In lieu of the 150 ohm line impedance stabilization network, a 50 ohm network is proposed.

(f) An electrosurgical unit will be subject to a line conducted limit, but not the radiation limit, if certain conditions are met.

51. The major objection to adoption of the international standard is the measuring instrument recommended by CISPR. The primary difference the CISPR instrument and other field strength meters is the quasi-peak detector, as opposed to peak, average or rms detectors. In the past few years more and more instrument manufacturers have been adding the quasi-peak detector function to their instrumentation. So the argument that it is no longer available in the U.S.A. may no longer be valid. Secondly, since RFI emissions from most ISM equipment is basically CW (continuous wave or sinusoidal) in nature and since there is little difference in the results when using a field strength meter with an average or quasi-peak detector to measure CW emissions, the Commission is recommending the use of the CISPR instrument, but will permit the use of a meter with an average detector. Instruments having an average detector and meeting certain minimal specifications such as those specified by the American National Standard Institute (ANSI) for such instruments will be permitted for testing ISM equipment.

52. ISM equipment operating on frequencies in the microwave region above 1,000 MHz presents a special problem. For ISM equipment operating on a frequency between 1 and 18 GHz, CISPR Publication 11 recommends that the radiated energy not exceed 57 dB above a picowatt when referred to half-wave dipole using a spectrum analyzer as the measuring instrument. Our preliminary investigation of this recommendation agreed

⁴³See footnote 13, above.

⁴⁴See par. 23, above.

with the comments from Litton that manufacturers will not be able to meet the CISPR microwave limit using the specified spectrum analyzer. Furthermore, only one country to our knowledge is enforcing the CISPR recommendation for microwave ISM equipment.

53. The problem is further aggravated by the fact that the present field strength instrumentation used for measuring RFI from microwave ovens, may not be readily available. Ideally, the spectrum analyzer is the most desirable instrument for making RFI measurements, since it is readily available and it can be used for other purposes. Unfortunately, however, additional investigations are needed to adapt the spectrum analyzer into an acceptable procedure for making measurements of RFI from microwave ovens. In the meantime, we are proposing the CISPR limit, converted to field strength (1,500 microvolts per meter at 3 meters) and permitting the use of a field strength meter with an average detector. In addition, we are inviting manufacturers to submit alternative proposals for measuring microwave ISM equipment.

54. Draft test procedures, which are under consideration and will be released as soon as practical, follow CISPR recommendations, but do include some differences. For example, in lieu of CISPR 150 ohm line impedance stabilization network used to measure RF terminal voltage, a 50 ohm, 50 μ H network is proposed. Testing of microwave ovens will continue to be made pursuant to present procedure in Bulletin OCE 20. The Bulletin will be revised slightly to take care of the revision in the new rules when adopted but the test procedure will not change. Comments on the proposed test procedures are also invited, when they are released. A public notice will be issued announcing their release. When available, copies may be obtained by writing: Federal Communications Commission, OCE, Room 7306, 2025 M Street NW., Washington, D.C. 20554.

55. At present, RF stabilized arc welders and electrosurgical units (ESU) are not included in the recommended limits and method of measurements for ISM equipment in CISPR publication 11. This is in part, due to the wideband emissions radiated by these equipments and the difficulty in measuring these emissions. However, because of their high interference potential, we do not believe they can be ignored indefinitely. For all practical purposes the present part 18 provisions do not control the interference potential of either of these ISM equipments. Earlier attempts to regulate them have not been successful.^{45 46}

56. For the present proposal, RF arc welders will be subject to the same technical restrictions that will be applied to other industrial ISM equipment. ESU's, however, present a special problem. As previously stated, ESU's produce extremely high level broadband emissions, particularly in the frequency range of 1 to 10 MHz. Because of this ESU's are the primary source of interference to electronic equipment in the hospital. During use, the emissions emanating from an ESU may render hospital instrumentation useless. But because it is a very useful instrument during surgery and since actual use is brief, doctors have learned and are willing to accept brief interruptions to other hospital instrumentation caused by ESU's. In the operating room where almost all ESU's are used this willingness to accept interference may be acceptable since the doctor can control its use, but outside the operating room it presents obvious hazards. To overcome this problem, we encourage hospital designers to provide shielding for hospital operating rooms to reduce such emanations outside the room. Because the proposed limits would probably preclude most present day ESU's, we are proposing, at least for the time being, to exempt ESU's operating pursuant to conditions in section 18.114 from the out-of-band limits in section 18.108. This is a temporary proposal and we are encouraging alternative proposals for this equipment.

57. In lieu of the present equipment authorization for ISM equipment, prototype certification, onsite certification and type approval, we are proposing to require certification for those equipments that can be tested at an approved measurement facility and ISM-registration for ISM equipment that cannot be tested at such a facility. Responsibility for obtaining ISM-registration will be on the supplier of the RF generator.

58. Certification is a procedure where the manufacturer or his representative makes measurements on the equipment and submits an application with the report of measurements to the Commission. If acceptable, a grant is issued.⁴⁷ Certification applies to all similarly produced equipment. The same procedure is followed for ISM-

welders. Three proposals were issued in this proceeding with little agreement reached. FCC docket 11467 will be terminated in a separate order and the issues involved in docket 11467 are reconsidered in this proceeding.

⁴⁶The present rules in part 18 exempt low power electrosurgical units from complying with any technical requirements. The proceeding in FCC docket 18731 tried to define the term low power ESU. FCC docket 18731 will also be terminated in a separate proceeding with the issue of how to control the interference potential of ESU considered herein.

registration however, the grant only applies to the equipment measured at that one location. We are deleting the type approval requirement for ISM equipment, since adequate test facilities are now available to manufacturers for the required test. Moreover, our experience over the last several years shows that most equipments submitted for type approval meet our requirements without adjustment or changes. We reserve to the right, of course, to test the equipment at any time. In this connection, we plan to increase enforcement efforts as recommended by many of the comments by randomly testing approved devices and applying administrative sanctions against manufacturers of noncomplying equipment.

59. In recognition of the fact that some of the ISM manufacturers may have to make some design changes in their equipment to comply with these more stringent technical requirements, we are proposing an 18 month lead period before the rules take effect. That is, ISM equipment manufactured 18 months after the adoption of these rules will be required to comply with the new rules for ISM equipment. Existing ISM equipment and equipment in operation before the effective date of the new rules will continue to operate under the present rules for a period of 10 years after adoption of the new rules.

CONCLUSION

60. The Commission believes that the present text of part 18 of FCC rules is not satisfactory for governing the interference potential of ISM equipment to protect current and future radio communication needs. We find, therefore, that proposed ISM rules in appendix C which are modeled after CISPR recommendation in Publication No. 11, would serve the public interest. It is recognized, however, that in rule changes as voluminous, technically involved and far-reaching as those proposed herein, there are bound to be provisions that could be further clarified or consolidated. Interested persons, including spectrum users, as well as ISM manufacturers and ISM users, are urged to recommend other possible modifications that can be incorporated within the scope of this rulemaking action. At the same time, it would be helpful if any observed omissions and errors were brought to our attention so that they can be corrected. Further, there may be a number of concurrent Commission proceedings that affect or change specific rules being proposed herein. Such changes will be included at the time final action is taken in this docket.

61. In accordance with the foregoing, notice of proposed rulemaking is

⁴⁵In 1955, the Commission initiated the proceeding in FCC docket No. 11467 proposing alternative rules for RF stabilized arc

PROPOSED RULES

hereby given to revise all aspects of part 18 of FCC rules. The specific changes proposed are set forth in appendix C. Authority for these proposed amendments are contained in sections 4(i), 301, 302 and 303(r) of the Communications Act, as amended.

62. Pursuant to applicable procedures in section 1.415 of FCC rules, interested persons may file comments on or before January 15, 1979, and reply comments on or before February 15, 1979. In accordance with the provisions of § 1.419(b) of FCC rules an original and five copies of all statements, briefs and comments or reply comments shall be furnished to the Commission. Members of the public who wish to express their interest by participating informally in this rule-making proceeding may do so by submitting one copy of their comment, without regard to form, provided the

submission is identified as a comment in docket No. 20718. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. Comments and reply comments, when received will be available for public inspection during regular business hours in the Commission's Docket Reference Room 239 at 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

ATTACHMENTS

- Appendix A—List of Parties Filing Comments to NOI.
- Appendix B—Examples of Emissions From ISM Equipment.
- Appendix C—Proposed Rules.

APPENDIX A

The following parties filed comments in response to the notice of inquiry in this proceeding:

Party	Acronym
1. Ultrasonics Industry Association, Inc.....	UIA.
2. International Business Machines Corp.....	IBM.
3. Branson Ultrasonic Corp.....	Branson.
4. Toshiba America, Inc.....	Toshiba.
5. RCA Corp.....	RCA.
6. Matsushita Electric Corp. of America (Panasonic).....	Panasonic.
7. Industrial Electronics and Control Instrumentation Group of the Institute of Electrical Electronic Engineers.....	IEEE.
8. Mann-Russell Electronics, Inc.....	Mann-Russell.
9. The Society of the Plastic Industry, Inc.....	SPI.
10. Miller Electric Manufacturing Co.....	Miller.
11. Lepel High Frequency Laboratories, Inc.....	Lepel.
12. Department of Health, Education, and Welfare, Food and Drug Administration, Bureau of Medical Devices and Diagnostic Products.....	HEW.
13. Computer and Business Equipment Manufacturers Association.....	CBEMA.
14. Aerospace and Flight Test Radio Coordinating Council.....	AFTRCC.
15. Association of Home Appliance Manufacturers.....	AHAM.
16. Raytheon Co.....	Raytheon.
17. Litton Industries.....	Litton.
18. Amana Refrigeration, Inc.....	Amana.
19. Solidyne, Inc.....	Solidyne.
20. Scott-Campbell Engineering.....	Campbell.
21. Liebel-Flarsheim, a Sybron corporation.....	Liebel-Flarsheim.
22. Mettler Electronics, Corp.....	Mettler.

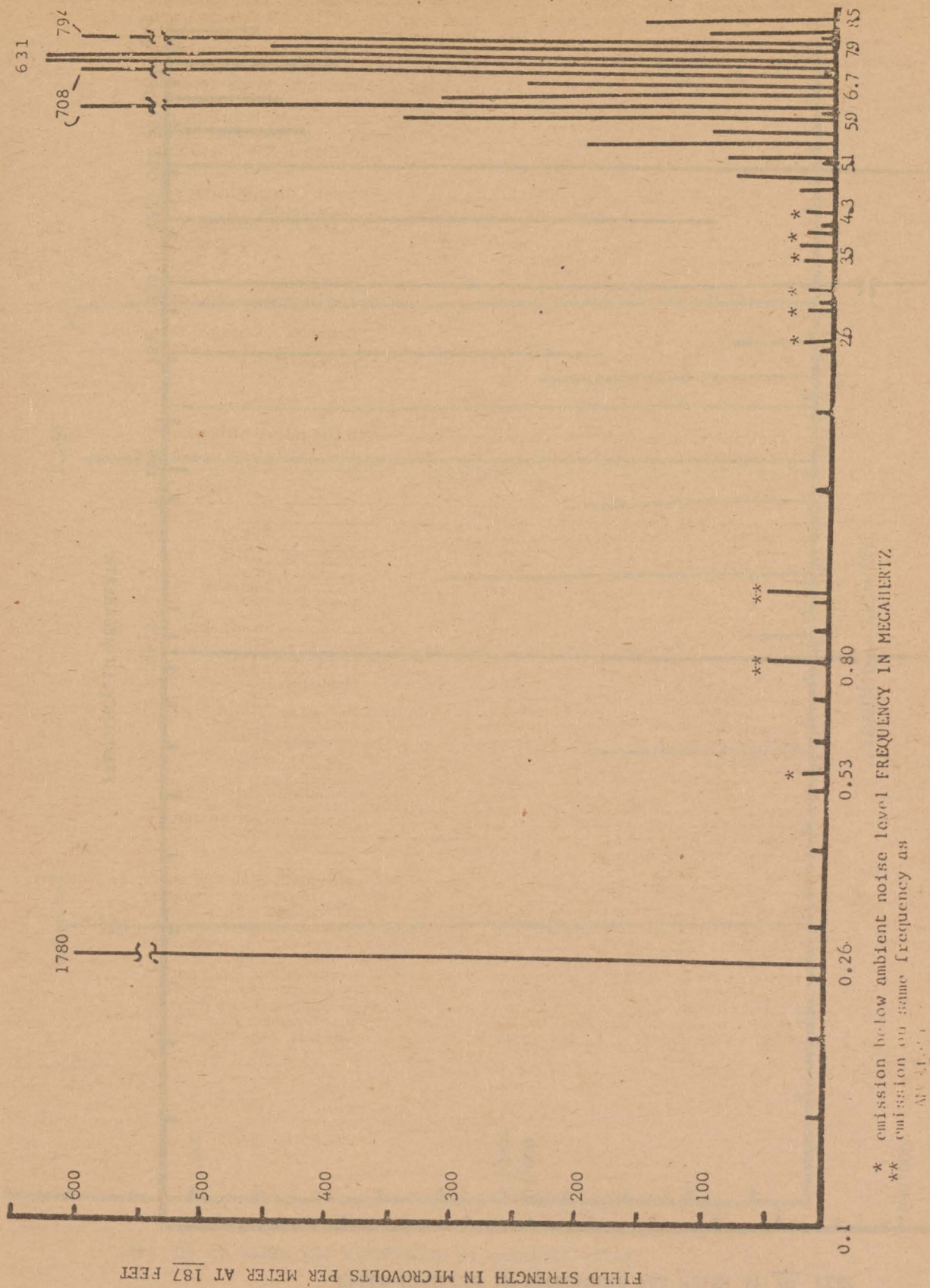
APPENDIX B

EXAMPLE OF EMISSIONS FROM ISM EQUIPMENT

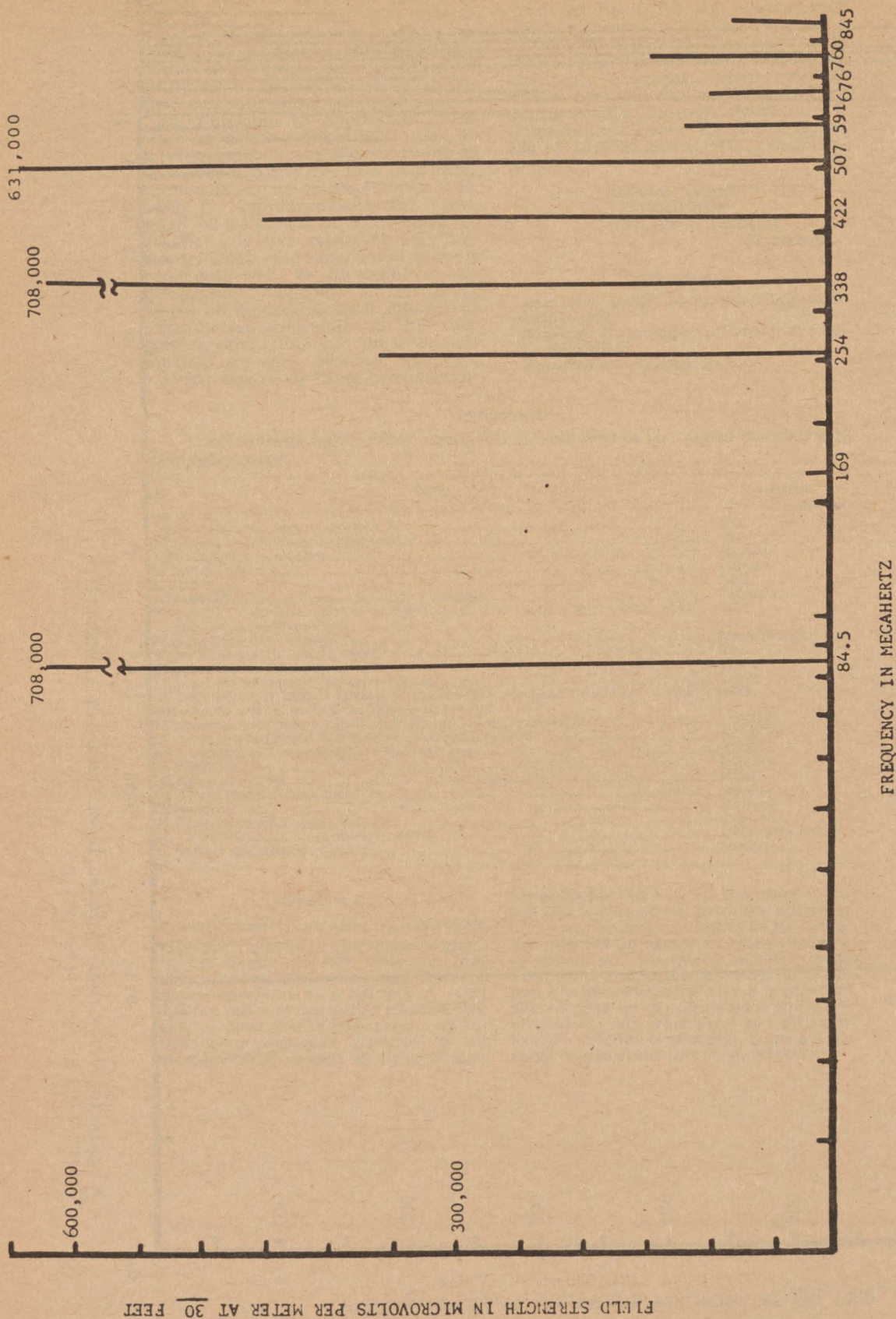
The seven graphs in this appendix give a pictorial display of RFI emissions from seven different ISM equipments. The level of each emission is field strength in microvolts per meter at a specified distance. The data for these graphs was taken from the report of measurement submitted by the manufacturer in support of his application

for prototype certification. Emissions above the 10th harmonic (10 times the operating frequency) are not required to be measured, nor reported. In almost all cases, the measurements on this equipment were made either at the manufacturer's plant or at the user's facility. Because of this, it is questionable whether the data reported is representative of the same equipment at a different location. Additional discussion is provided in paragraph 38 of the text of the NPRM.

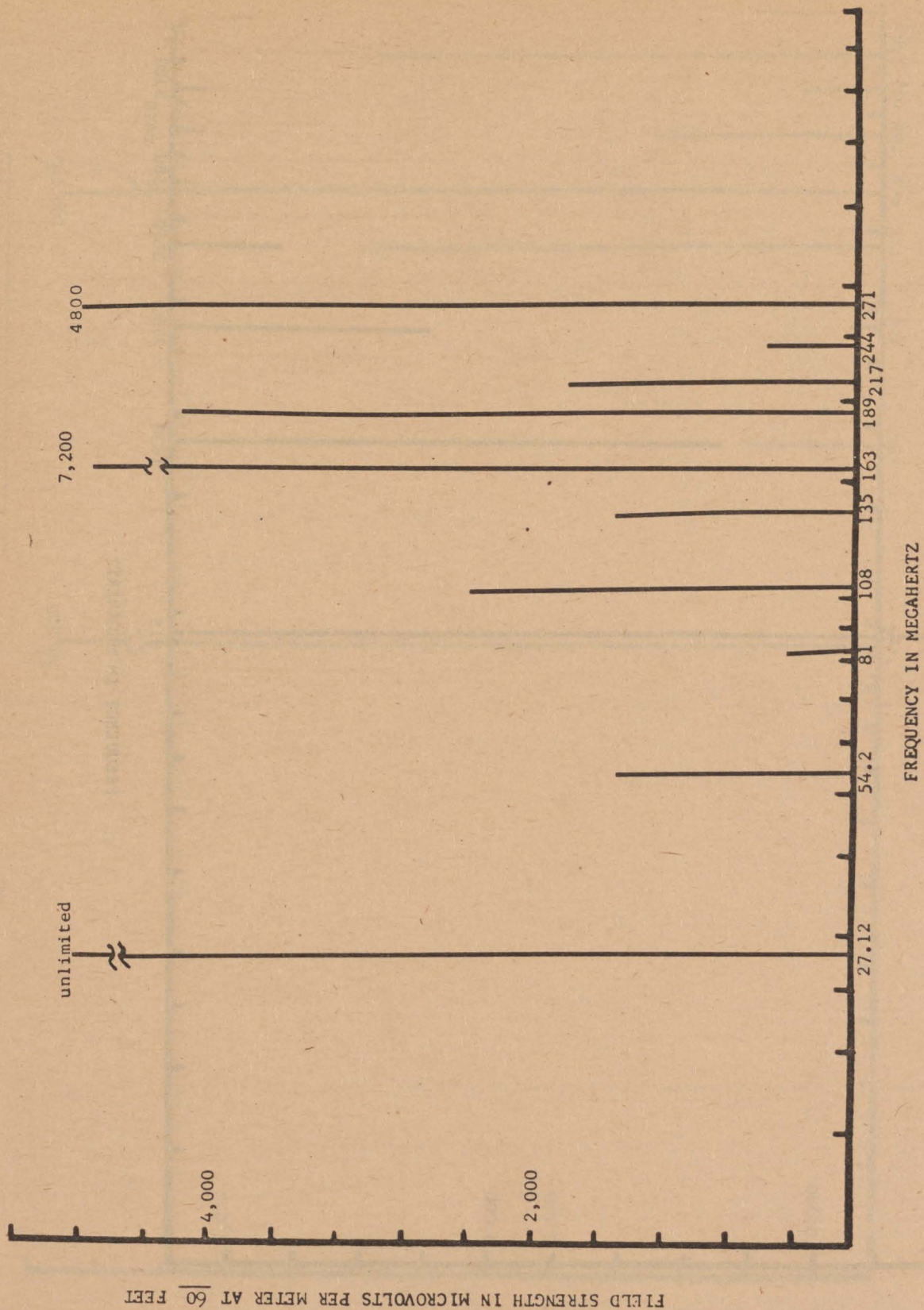
GRAPH NO. 1. EXAMPLE OF EMISSIONS FROM A 100 KW INDUSTRIAL HEATER (250-350KHz)



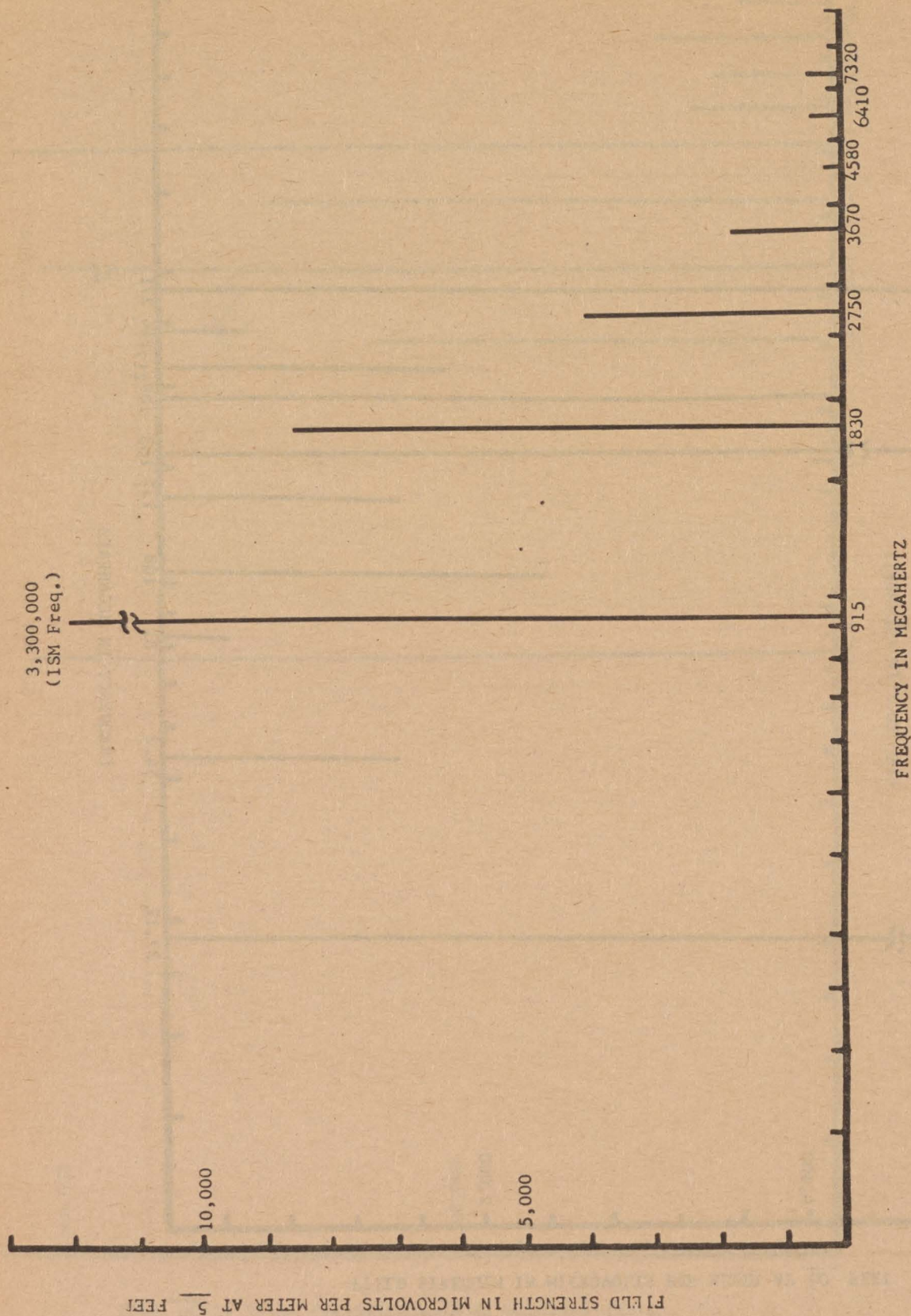
GRAPH NO. 2 EXAMPLE OF EMISSIONS FROM A 20 KW INDUSTRIAL HEATER (84.5 MHz)



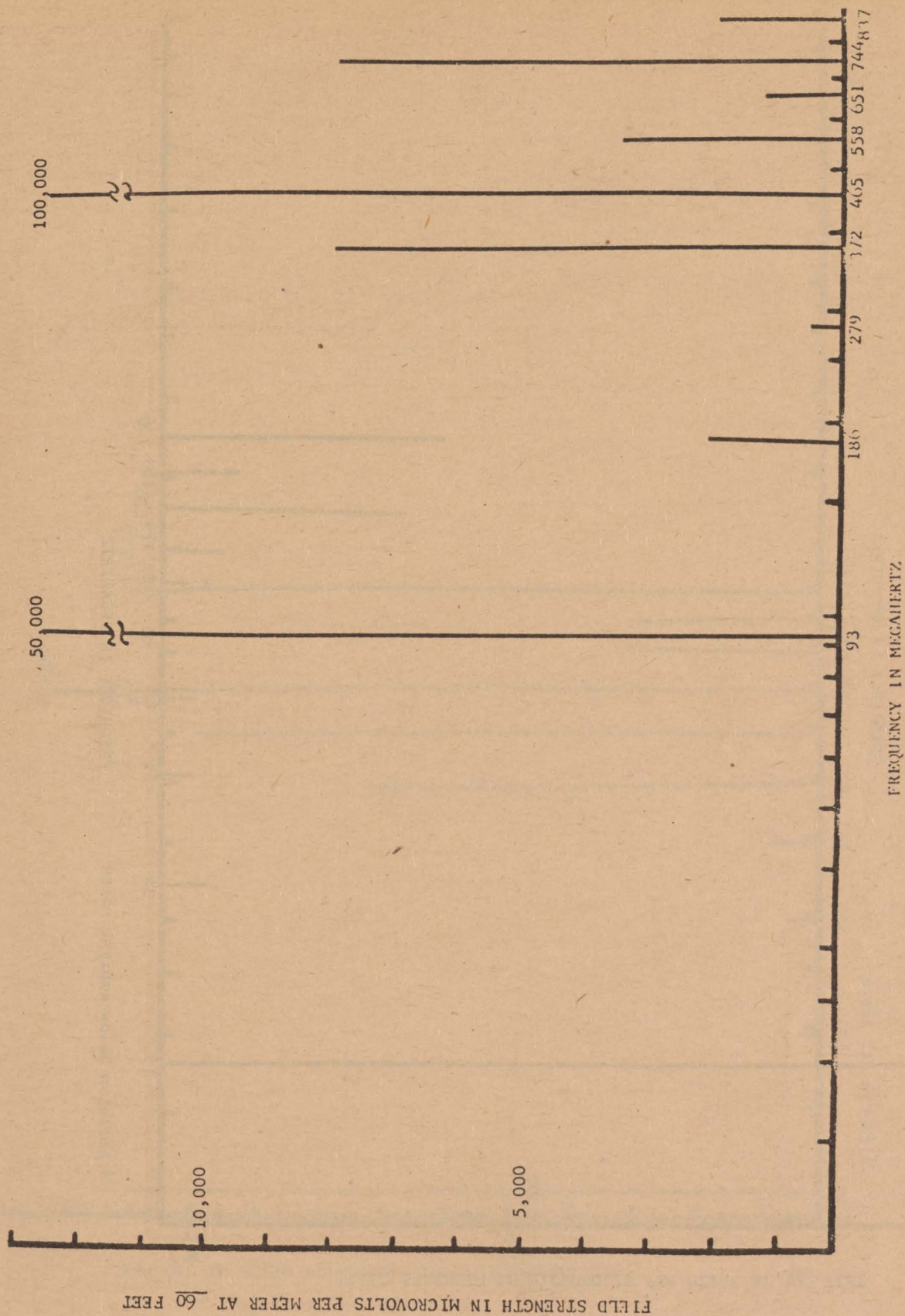
GRAPH NO. 3. EXAMPLE OF EMISSIONS FROM A 1 KW VINYL HEATER (27.12 MHz)



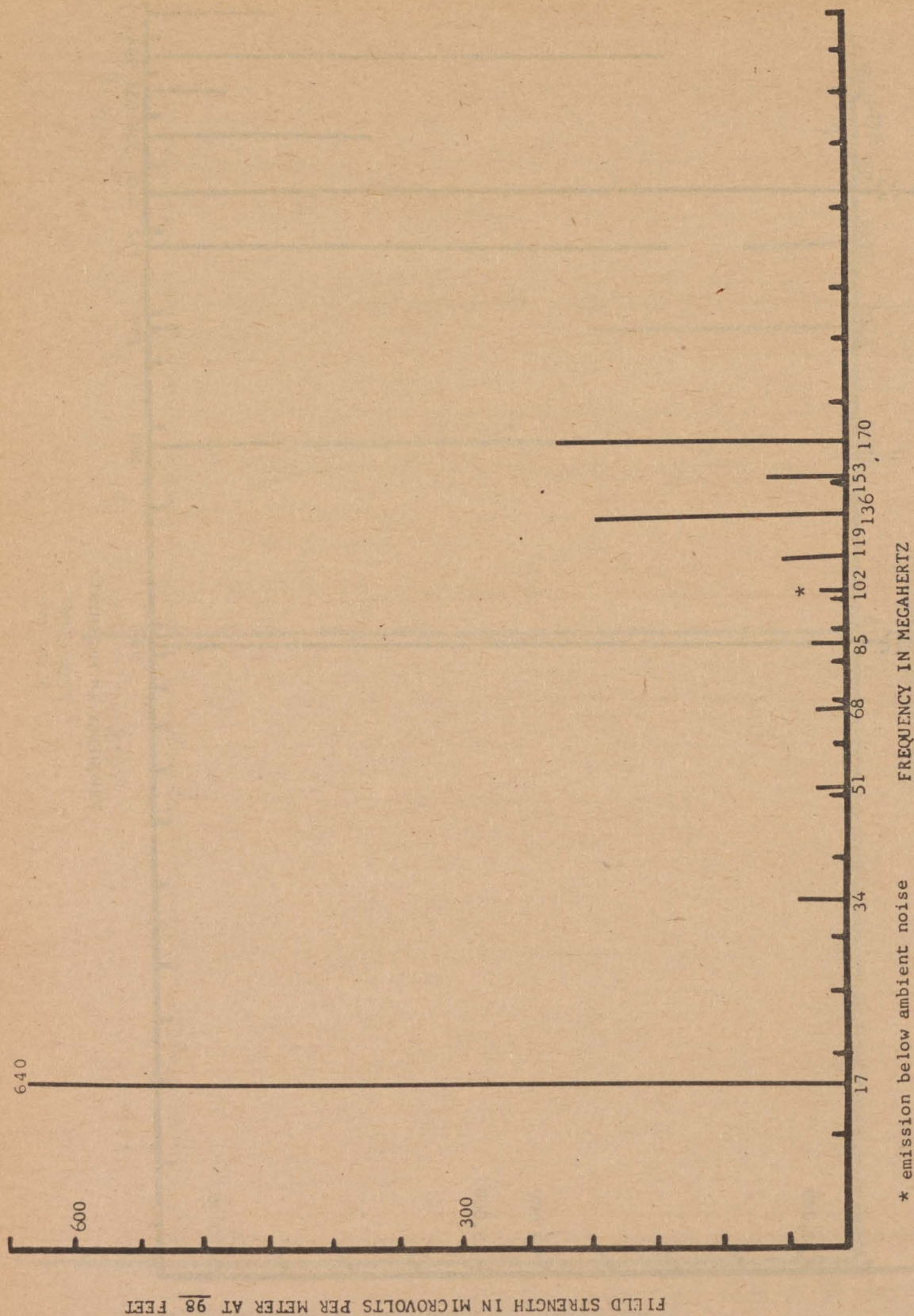
GRAPH NO. 4 EXAMPLE OF EMISSIONS FROM A 25 KW INDUSTRIAL PREHEATER (915 MHz)



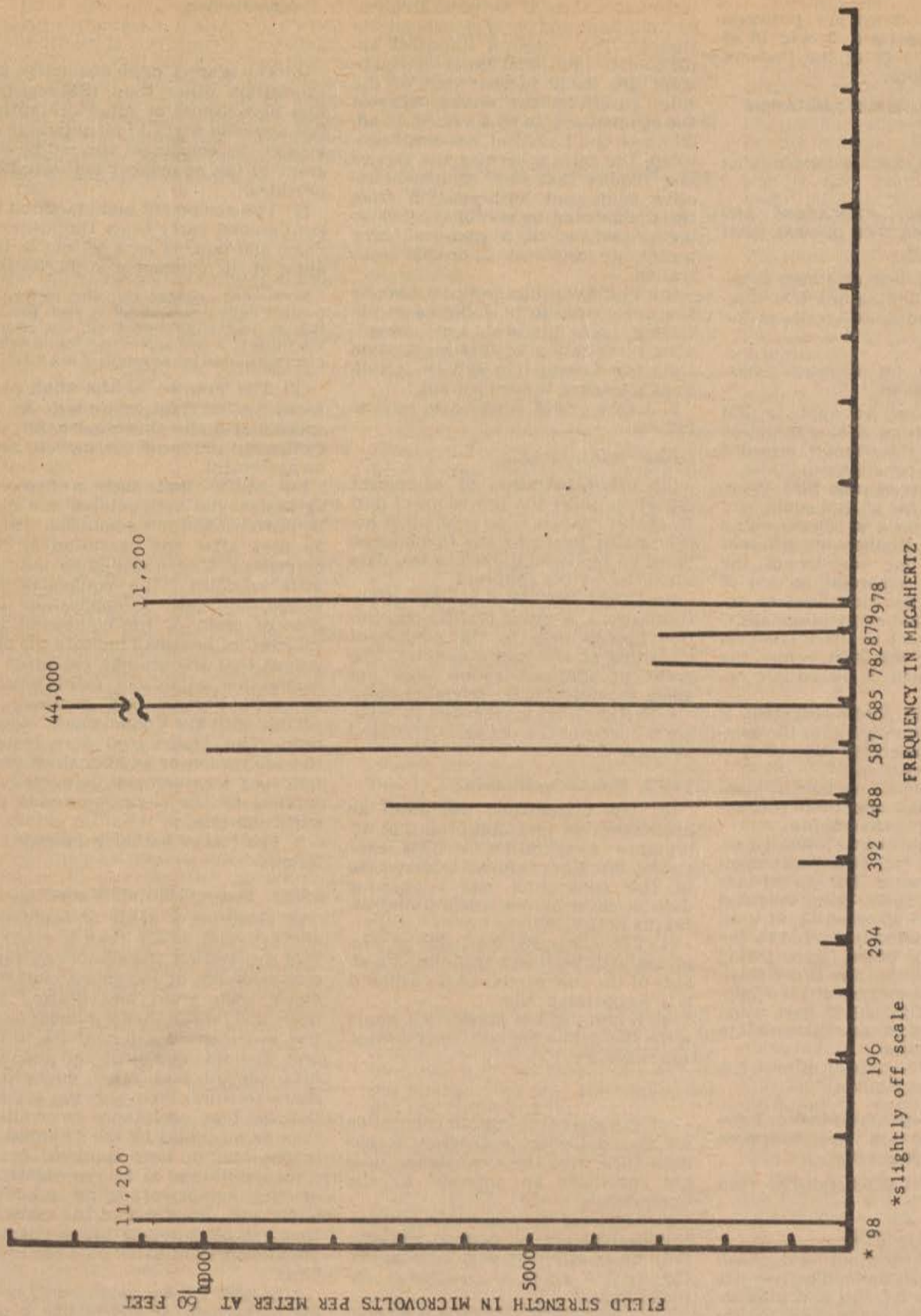
GRAPH NO. 5 EXAMPLE OF EMISSIONS FROM A 8.5 KW DIELECTRIC HEATER (89-107 MHz)



GRAPH NO. 6 EXAMPLE OF EMISSIONS FROM A 20 KW PAPER DRYER (17 MHz)



GRAPH NO. 7. EXAMPLE OF EMISSIONS FROM A 8.5 KW Dielectric Heater (89-109 MHz)



APPENDIX C

The following items are proposed amendments to parts 0, 2, and 18 of chapter I of title 47 of the Code of Federal Regulations.

PART 0—COMMISSION ORGANIZATION

§ 0.455 [Amended]

1. Section 0.455(e)(2) is deleted in its entirety.

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

2. The present text of § 2.809 is deleted and the following new text is inserted. As revised § 2.809 reads as follows:

§ 2.809 Exemption for equipment subject to ISM-registration.

Section 2.803 shall not apply to ISM equipment requiring ISM-registration under part 18 of this chapter, provided all the following conditions are met:

(a) The supplier of such ISM equipment or, in the case of ISM equipment which is a composite of subassemblies supplied by a number of different manufacturers, the supplier of the radio frequency generator section of the equipment, has submitted an application for ISM-registration (FCC form 731) pursuant to the procedures in subpart J of this part before the complete equipment is placed into operation.

(b) A grant of ISM-registration is issued by the Commission for the complete ISM equipment 90 days after it is placed into operation.

(c) The completed equipment complies with all other applicable requirements in part 18 of this chapter.

(d) ISM equipment which has not received a grant of ISM-registration within 90 days after it is placed into operation shall cease being operated and shall not be operated again until said ISM-registration is granted by the Commission. The 90-day grace period may be extended by the Chief Engineer to permit operation of the equipment for an additional 30 days when there are sufficient reasons given to justify the extension.

3. The title of subpart J of part 2 is revised to read as follows:

Subpart J—Equipment Authorization Procedures—Type Approval; Type Acceptance; Certification; ISM-Registration

4. Section 2.901 is amended to read as follows:

§ 2.901 Basis and purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spec-

trum the Commission has developed technical standards for radio frequency equipment and parts or components thereof. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards provided, the rules governing the service may require that such equipment receive equipment authorization from the Commission by one of the following procedures: Type approval, type acceptance, certification, or ISM-registration.

(b) The following sections describe the procedures to be followed in obtaining type approval, type acceptance, certification, or ISM-registration from the Commission and the conditions attendant to such a grant.

5. A new § 2.906 is added to read as follows:

§ 2.906 ISM-registration.

(a) ISM-registration of equipment operating under the provisions of part 18 of this chapter is an equipment authorization issued by the Commission based on representations and test data submitted by the applicant.

(b) Unlike the other equipment authorizations, a grant of ISM-registration applies only to the equipment measured at the user's premise. The grant of ISM-registration does not apply to subsequently produced units.

6. Section 2.915 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 2.915 Grant of application.

(a) The Commission will grant an application for type approval, type acceptance, certification, or ISM-registration if it finds from an examination of the application and supporting data, or other matter which it may officially notice, that:

(1) The equipment is capable of complying with pertinent technical standards of the rule part(s) under which it is to be operated; and,

(2) A grant of the application would serve the public interest, convenience, and necessity.

(c) The mere fact that an application for an equipment authorization has been filed with the Commission does not constitute an approval by the Commission.

(d) Grant of an equipment authorization shall not be deemed effective until on or after the date inscribed on the written grant of equipment authorization.

7. Paragraph (b) of § 2.929 is amended as follows:

§ 2.929 Nonassignability of an equipment authorization.

(b) The grantee of an equipment authorization other than ISM-registration may license or otherwise authorize a second party to manufacture or market the equipment covered by the grant of the equipment authorization provided:

(1) The equipment manufactured by such second party bears the identical name and number as is set out in the grant of the equipment authorization.

NOTE.—Any change in the name or number desired as a result of such production or marketing agreement will require the filing of a new application for an equipment authorization as specified in § 2.933.

(2) The grantee of the equipment authorization shall continue to be responsible to the Commission for the equipment produced pursuant to such an agreement.

(3) Notice that such a licensing agreement has been entered into shall be provided to the Commission within 30 days after the execution of the agreement. The notice shall indicate with specificity the equipment involved, the date of application and date of grant of the equipment authorization, and shall indicate the provisions that the grantee has made to insure that equipment manufactured by such licensee will continue to comply with the Commission's regulations. The Commission may require the submission of additional information (new measurement data, etc.) depending on the circumstances in the particular case.

8. The text of § 2.931 is amended as follows:

§ 2.931 Responsibility of the grantee.

In accepting a grant of equipment authorization, other than a grant of ISM-registration, the grantee warrants that each unit of equipment marketed under such grant and bearing the name and type or model number specified in the grant will conform to the unit that was measured and that the data (design and rated operational characteristics) filed with the application for type acceptance or certification, or measured by the Commission in the case of type approved equipment, continues to be representative of the equipment being produced under such grant within the variation than can be expected due to quantity production and testing on a statistical basis.

9. Section 2.932 is amended by revising paragraph (a) and adding a new paragraph (e) to read as follows:

§ 2.932 Modification of equipment.

(a) A new application for an equipment authorization shall be filed whenever there is a change in the design, circuitry, construction, or location in the case of ISM-registration under part 18 of this chapter, of an equipment or device for which an equipment authorization has been issued, except as provided in paragraphs (b), (c), (d), and (e) of this section.

(e) For changes in equipment for which an ISM-registration was issued, the procedure and permissive changes in § 2.1055 shall apply.

10. The headnote and text of § 2.1037 are revised to read as follows:

§ 2.1037 Application for certification of ISM equipment.

(a) An application for certification of ISM equipment shall be submitted for equipment that can be tested on a test site.

(b) The application shall be filed on FCC form 731 with all items answered. Items that do not apply shall be so noted.

(c) The application shall be accompanied by the required fees, technical report, photographs, expository statement, instruction manual, and other attachments specified in part 18 for the particular equipment.

(d) The application shall be accompanied by photographs sufficient in number to show the general appearance, construction, RF generator, operating controls, attachments, and accessories (if any) and placement of electronic parts. At least one photograph must show the identification label in sufficient detail so that the information required by § 2.1045 is legible. The photographs should be 8 x 10 inches in size. Smaller photographs may be submitted provided they are sharp and clear, show the necessary detail, and are mounted on a sheet of letter size paper. In lieu of a photograph of the label, a sample label or engineering drawing of the label may be submitted together with a sketch showing where this label will be placed on the equipment. The label and sketch should be mounted on a sheet of letter size paper to facilitate handling and filing.

(e) The expository statement shall include the following information:

(1) A description of the equipment explaining how it operates supported by graphs, charts, and diagrams, as needed. The description shall include a circuit diagram complete with a written description and a block diagram of the circuitry noting each frequency generated in the equipment.

(2) A description of all accessories and attachments, if any, used with the

equipment along with a description of how they are used.

§ 2.1039 [Reserved]

11. The present text and title of § 2.1039 are deleted in its entirety and replaced with "Reserved."

12. A new § 2.1040 is added to read as follows:

§ 2.1040 Technical report for ISM equipment.

The application for certification of ISM equipment shall include a technical report containing the following information:

(a) The full name, mailing address, street address (if different), and telephone number of the manufacturer of the equipment.

(b) The model number, trade name (if any), or FCC identifier of the equipment pursuant to § 2.1045.

(c) A copy of the installation and operating instructions furnished to the user. A draft copy of such instructions may be submitted with the application provided a copy of the final document furnished to the user is submitted to the Commission as soon as it is available, but no longer than 60 days after the grant of the application.

(d) A report of measurements clearly showing that the equipment is capable of complying with the applicable technical specifications in part 18 of this chapter. The procedure for making the measurements is specified in part 18. Measurement report shall include test data showing that the equipment complies when any attachments specified in 2.1037(e)(2) are used with the equipment.

(e) A statement of the technical parameters that includes:

Electrical power requirements of equipment.

Maximum RF energy generated.

Nominal operating frequency.

Measured frequency variations due to changes in temperature and load.

Any other pertinent operating characteristics.

(f) A statement of the operating conditions that must be observed to insure that radiation during routine operation does not exceed the technical specifications that were measured and reported herewith.

(g) The name and location of the test facility where the equipment was measured.

NOTE.—If the rules proposed in FCC docket 21371 are adopted, the individual making measurements on the equipment will be required to file a description of his test facility with the Commission.

13. Section 2.1045 is amended by adding two new paragraphs, (f) and (g), to read as follows:

§ 2.1045 Identification label for certificated equipment.

(f) For ISM equipment requiring certification under part 18 of this chapter the words "Model No." followed by the number assigned to the equipment by the grantee. If the identification label contains other numbers in addition to that required by this paragraph, such as "Service No.," "Catalog No.," or other similar terms, the words "Model No." should be preceded by the term "FCC Data" to avoid confusion and to facilitate recognition of the identifying number used for FCC.

NOTE.—This requirement may change if the rules in FCC docket 20790 are adopted as proposed.

(g) The identification label for ISM equipment requiring certification under part 18 of this chapter shall also legibly bear the following statement: "This equipment, as of date of manufacture, complies with 47 CFR Part 18. If harmful interference to radio communications is caused by its operation, the operator shall take the necessary steps to remedy the interference."

14. A new undesignated subheading and §§ 2.1050 to 2.1055 are added to read as follows:

ISM-REGISTRATION**§ 2.1050 General.**

(a) Part 18 of this chapter provides for ISM-registration of an ISM equipment when the size, power requirement, or need for other auxiliary capability for such equipment makes it impractical to test for compliance on a standard test site.

(b) Such equipment shall be tested for compliance with the technical specifications in part 18 after it has been installed and is ready for use.

(c) The equipment shall not be placed into operation until it has been tested and found to comply with the technical specifications in part 18 and an application for ISM-registration of the equipment has been filed with the Commission pursuant to the procedures in this subpart.

(d) Pending grant of ISM-registration by the Commission such equipment may be operated on a temporary basis for a period not to exceed 90 days from the date the application was filed with the Commission. (See 2.901 et seq.) A 30-day extension may be granted by the Chief Engineer in unusual circumstances.

§ 2.1051 Cross reference.

The general provisions of this subpart, § 2.901 et seq., shall apply to applications for grants of ISM-registration of ISM equipment.

§ 2.1052 Application for ISM-registration.

(a) An application for ISM-registration shall be filed on FCC Form 731 with all questions answered. Items that do not apply shall be so noted.

(b) The applications shall be accompanied by the required technical report, photographs, expository statement, instruction manual, and such other documents that are specified in part 18 for the particular equipment.

(c) The application shall be accompanied by a sufficient number of photographs showing the general appearance, construction, RF generator, operating control attachments (accessories), if any, and placement of electronic parts. At least one photograph must show the identification label in sufficient detail so that the information required by § 2.1054 is legible. The photographs should be 8 x 10 inches in size. Smaller photographs may be submitted provided they are sharp and clear, show the necessary detail, and are mounted on a sheet of letter size paper. In lieu of a photograph of the label, a sample label or engineering drawing of the label may be submitted together with a sketch showing where this label will be placed on the equipment. The label or drawing should be mounted on a sheet of letter size paper.

(d) The expository statement shall include the following information:

(1) A description of the equipment explaining how it operates supported by graphs, charts, and diagrams, as needed. A circuit diagram shall be included, complete with a written description and where appropriate, block diagrams of the circuitry noting each frequency generated in the equipment.

(2) A description of all attachments (accessories), if any, used with the equipment with an explanation of how they are used.

(e) A statement signed and dated by the engineer who performed the tests that he had tested the assembled equipment and found it complies with the specifications in part 18 of this chapter and that in his opinion the operation of the equipment is not expected to cause harmful interference to radio communications.

§ 2.1053 Technical report.

An application for ISM-registration shall include a technical report containing the following information:

(a) The full name, mailing address, and telephone number of the manufacturer of the equipment. For composite ISM equipment, the name, address, and telephone number of the manufacturer of the RF generator part of the equipment is also required.

(b) The model number, trade name (if any), or FCC identifier of the equipment pursuant to § 2.1054.

(c) A copy of the installation and operating instructions furnished to the user. The operating manual supplied to the user shall include a list of items the user can check to insure continued compliance of the equipment with the provisions of this chapter. A draft copy of such instructions may be submitted with the application provided copies of the final documents that will be furnished to the user are submitted to the Commission as soon as they are available, but no longer than 120 days after the application is filed.

(d) The name, address, and telephone number of the firm operating the equipment accompanied by a drawing showing its physical location in the plant.

(e) A report of measurements clearly showing that the equipment with all attachments specified in § 2.1052(d)(2) is capable of complying with the applicable technical specifications in part 18 of this chapter. The procedure for making the measurements is specified in part 18.

(f) A technical description of the equipment that includes the nominal operating frequency, measured range of frequency variations due to changes in temperature and load, power requirements, RF power generated, and any other pertinent technical characteristics.

(g) A statement of the operating conditions that must be observed to insure that radiation during routine operation does not exceed the technical specifications that were measured and reported herewith.

(h) A list of the measuring equipment used, including the manufacturer and model of equipment and the date when last calibrated.

(i) A sample calculation showing how the readings from the measurement instrument are equated to the limits in part 18.

§ 2.1054 Identification of ISM-registered equipment.

In the case of an ISM equipment registered under part 18 of this chapter, the identification label shall contain the following information:

(a) name of the grantee of the ISM-registration.

(b) The words "Model No." followed by a unique number assigned to the equipment.

NOTE.—This requirement will be conformed with any new identification rules that are adopted in FCC docket 20790.

(c) The following statement:

This equipment as of date of installation (date) complies with 47 CFR Part 18 of FCC rules. In the event that this equipment is identified as the source of harmful interference to radio communications, operation of this equipment must cease and may not be resumed until the interference problem has been corrected.

§ 2.1055 Changes in ISM-registered equipment.

(a) Any modification, or change in location, of registered ISM equipment that affects the data reported to and accepted by the Commission must comply with the provisions of this section.

(b) Two classes of permissive changes are permitted for ISM-registered equipment without requiring a new application for and grant of ISM-registration.

(1) A class I permissive change includes those modifications, or changes in location of the equipment which do not degrade the characteristics reported by the applicant and accepted by the Commission when registration is granted. No filing with the Commission is required for a class I permissive change.

(2) A class II permissive change includes those modifications or changes in location which degrade the performance characteristics as reported to the Commission at the time of initial ISM-registration. Such degraded performance must still meet the minimum requirements of the applicable rules. The user of the equipment must supply the Commission with complete information and results of tests of the characteristics affected by such change. The Commission may require additional tests and information to verify continued compliance of the equipment and, if necessary, may require a complete new ISM-registration of the equipment.

(3) When a class II permissive change is made by other than the grantee of ISM-registration, the information and data specified in paragraph (b)(2) of this section shall be supplied by the person making the change. The modified equipment shall not be operated prior to acknowledgment by the Commission that the change is acceptable.

(c) The following changes are not considered permissive changes as defined in paragraph (b) of this section and require a new grant of ISM-registration:

(1) The addition of new or modified equipment requiring ISM-registration to the user's premise, regardless of the fact that ISM-registration has been granted to existing equipment. Test data need only be submitted for the new equipment, unless specifically requested otherwise by the Commission.

(2) Reconstruction or modification of a screen room that houses ISM-registered equipment.

(3) Relocation of ISM-registered equipment to a building where the construction and consequently the attenuation provided by the building is different.

(4) Any other change not covered by the permissive changes in paragraph (b) of this section.

(d) A user desiring to make a change other than a permissive change described in paragraph (a) of this section shall file a new application pursuant to the procedure in § 2.1052. The applicant shall attach a description of the changes to be made along with a new report of measurements.

15. Part 18 is revised as follows:

PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

Subpart A—General

Sec.

- 18.1 Scope of the part.
- 18.2 Cross reference.
- 18.3 Definitions.
- 18.5 General conditions of operation.
- 18.7 Interference to a safety or radionavigation service.
- 18.30 Certification of ISM equipment.
- 18.31 Marketing requirement.
- 18.32 ISM-registration of equipment.
- 18.34 Interim operation permitted pending ISM-registration.
- 18.36 Inspection of ISM equipment by operator.
- 18.38 Description of measurement facilities.

Subpart B—Technical Specifications

- 18.100 ISM frequencies.
- 18.102 Reduced frequency tolerance for certain ISM equipment.
- 18.104 General technical requirement.
- 18.106 In-band emission limits.
- 18.108 Out-of-band emission limits.
- 18.110 Prohibited frequency bands.
- 18.112 Conducted RF voltage limits.
- 18.114 Exemption for electrosurgical units.
- 18.116 Exemption for ultrasonic equipment.
- 18.118 Measurement site.
- 18.120 Measurement procedure: At a test site.
- 18.122 Measurement procedure: At the user's premises.
- 18.124 Measurement procedure: Domestic microwave oven.
- 18.128 Measurement procedure: Ultrasonic equipment.
- 18.130 Measurement procedure: Medical diathermy equipment.

Subpart C—Interim Requirements for Existing ISM Equipment

- 18.200 ISM equipment manufactured before (date to be specified).
- 18.202 Technical specifications for ultrasonic ISM equipment manufactured before (date to be specified).
- 18.204 Technical requirements for industrial heating equipment manufactured before (date to be specified).
- 18.206 Technical requirements for medical diathermy and miscellaneous ISM equipment manufactured before (date to be specified).

AUTHORITY: Secs. 4(i), 301, 302, and 303(r) of the Communications Act as amended.

Subpart A—General

§ 18.1 Scope of this part.

(a) This part sets out the requirements and conditions under which the operation of ISM equipment is not considered to be a source of harmful interference and is therefore not required to be licensed under 47 U.S.C. 301.

(b) This part sets out the procedures governing the application for and grant of an equipment authorization to implement the requirements of 47 U.S.C. 302.

§ 18.2 Cross reference.

The requirements in subparts I, J, and K of part 2 of this chapter shall apply to an ISM equipment.

§ 18.3 Definitions.

For purposes of this part the following definitions shall apply:

(a) "Radiofrequency energy" (RF energy). Electromagnetic energy on any frequency or over a band of frequencies that lie between 10 kHz and 3000 GHz.

(b) "ISM equipment." Any apparatus or system which generates and uses "RF energy" for industrial, scientific, medical or any other purpose including the transfer of RF energy by conduction, induction or radiation and which is neither used, nor intended to be used for radiocommunications. The following devices are subject to other parts of this chapter and are not considered ISM equipment:

(1) Industrial controllers, including those that use sonic, ultrasonic, or RF energy to control other devices or equipment (see part 15 of this chapter).

(2) RF switching power supplies (see part 15).

(3) Test equipment.

(4) Any device that transfers energy or signals to an electronic apparatus, e.g., implanted pacemakers.

(5) Data processing equipment, computers, and office machines (see part 15).

(6) Carrier current or radiofrequency distribution system (see part 15).

(c) "ISM frequency." The frequencies, including variations due to frequency tolerance, specified in § 18.100 of this part.

(d) "Harmful interference." Any emission, radiation, or induction which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radiocommunication service operating in accordance with this chapter.

(e) "Ultrasonic equipment." An apparatus which generates radiofrequency energy and utilizes that energy to excite or drive an electromechanical

transducer for the production of sound, sonic or ultrasonic mechanical energy for industrial, scientific, medical, or other noncommunicative purposes. Equipment that generates and uses RF energy to produce ultrasonic or sonic waves for communication or control purposes is subject to rules in other parts of this chapter.

(f) "Consumer ISM product." Any ISM equipment used or intended to be used and operated by the general public, e.g., microwave ovens.

(g) "Equipment authorization." A collective term referring to type approval, type acceptance, certification, and ISM-registration of radio frequency devices. The specific equipment authorization required is specified in the rules governing that equipment (see § 2.901 et seq.). Registration of telephone equipment subject to the specification of part 68 of this chapter is not included in this definition.

(h) "User premises." The building in which the ISM equipment is or will be operated.

(i) "Medical diathermy equipment." Any apparatus, including electrosurgical units, which generate and utilize radiofrequency energy for therapeutic purposes.

(j) "Miscellaneous ISM equipment." Includes equipment other than industrial heating equipment and medical diathermy equipment that generate and apply RF energy to materials to produce physical, biological, or chemical effects such as heating, ionization of gases, mechanical vibrations, hair removal, and acceleration of charged particles, which do not involve communications or the use of receiving equipment.

(k) "Low-voltage ISM equipment." ISM equipment with input operating voltages of up to 600 volts d.c. or RMS a.c.

§ 18.5 General conditions of operation.

(a) Persons operating ISM equipment shall not be deemed to have any vested or recognizable right to the continued use of any given frequency, by virtue of prior ISM-registration or certification of equipment.

(b) Operation of ISM equipment is subject to the condition that no harmful interference is caused to radiocommunications.

(c) Notwithstanding whether the equipment complies with the rules herein, the operator of ISM equipment that causes harmful interference to any authorized radio service (with exception of interference to authorized devices operating on ISM frequencies on a secondary basis) shall promptly take steps as may be necessary to remedy the interference.

NOTE.—The Commission may also require the person receiving the interference to take corrective measures, depending on the

circumstances of the particular interference.

(d) The premises upon which ISM equipment is located and any documents required under these rules shall be available for inspection by representatives of the Commission at all reasonable hours. Upon receipt of a reasonable request by Commission representative, the owner or operator of ISM equipment shall furnish to the representative such information as may be requested pertaining to the operation, maintenance, and use of his equipment.

§ 18.7 Interference to a safety or radionavigation service.

(a) Upon notification by a Commission representative that an ISM equipment is endangering the functioning of a radio navigational or safety radio service, the operator shall cease operating the interfering equipment immediately.

(b) Corrective measures must be taken before operation of the interfering equipment may be resumed.

(c) Before operation is resumed, a report must be filed and accepted by the engineer in charge of the local Commission district office which explains in detail what corrective measures have been taken to insure that the harmful interference has been eliminated. A copy of this report shall also be concurrently filed with the Office of Chief Engineer, Federal Communications Commission, Washington, D.C. 20554. A new report of measurements showing compliance with all the requirements of this part may also be required.

(d) Upon receipt of the report, the local engineer in charge will notify the operator of the equipment within 10 days that the report is acceptable or, if not, state in writing what additional information is required to insure compliance.

(e) With the permission of the local engineer in charge, operation may be resumed on a temporary basis pending acceptance of the report required in paragraph (c) of this section. Requests for permission to operate on a temporary basis may be made and granted by telephone, provided that the request and grant are promptly confirmed in writing.

§ 18.30 Certification of ISM equipment.

(a) ISM equipment capable of being measured on a test site shall be certified pursuant to the procedures in subpart J of part 2 of this chapter to show compliance with the technical specifications in this part.

(b) Certification is mandatory for the following ISM equipment:

- (1) Domestic microwave oven;

- (2) Consumer ISM products;
- (3) Ultrasonic equipment having less than 500 watts output;
- (4) Medical ISM products.

§ 18.31 Marketing requirement.

Importation and marketing of ISM equipment are proscribed under subpart I of part 2 of this chapter until certification if required, has been granted by this Commission. Equipment requiring ISM-registration shall comply with requirements in § 2.809 of this chapter.

§ 18.32 ISM-registration of equipment.

(a) ISM equipment that does not lend itself to measurement on a test site because of size, power requirements, or some other special consideration, shall be ISM-registered at the user's premises pursuant to the procedures in subpart J of part 2 of this chapter to show compliance with the technical specifications of this part.

(b) The supplier of the equipment requiring ISM-registration shall have the primary responsibility in submitting the application for and obtaining the grant of ISM-registration of such equipment for the user, except under the following circumstances:

(1) When the equipment is a composite of a number of subassemblies each supplied by a different manufacturer, the supplier of the RF generator shall have primary responsibility for applying for and obtaining ISM-registration of the complete ISM equipment for the user.

(2) When a previously ISM-registered equipment has been modified or changed so as to require a new grant of ISM-registration, the equipment user shall apply for and receive a new grant of ISM registration. User shall notify grantee of such application.

(3) When an ISM equipment is fabricated by the user, he shall bear the responsibility for applying for and obtaining the grant of ISM-registration of such equipment.

(c) The user shall be listed as the grantee with the supplier listed as the manufacturer on the application for ISM registration. After ISM-registration is granted the user is responsible for insuring continued compliance of the equipment.

(d) The application for ISM-registration of ISM equipment must be filed within 10 days after the equipment is placed into operation.

§ 18.34 Interim operation permitted pending ISM-registration.

After the application for ISM-registration has been filed with the Commission pursuant to § 18.32 of this part, the equipment may be operated for a maximum of 90 days pending receipt of the grant of ISM-registration.

This interim operating period may be extended by the chief engineer for an additional 30 days when there is justification for the extension.

§ 18.36 Inspection of ISM equipment by operator.

(a) ISM-registered equipment shall be routinely inspected by the user's representative to insure continued compliance of the equipment. Inspections shall be made semiannually in accordance with the list of inspection items in the operating manual and pursuant to the instructions in Bulletin OCE-8. (See note under § 18.124)

(b) A log shall be maintained of the inspections. The inspector shall enter a note of his findings and shall date and sign each entry.

(c) The log shall be maintained at the same location as a copy of the report of measurements and grant of ISM-registration.

(d) A Commission representative may require the operator of the equipment to file a new application for ISM-registration if he determines, as a result of an inspection, that such action is necessary in order to assure compliance with this part.

§ 18.38 Description of measurement facilities.

Each person making measurements to be filed with an application for certification shall file a description of his measurement facility pursuant to section 2.951.

NOTE.—This requirement is being proposed in a separate rulemaking proceeding in FCC docket 21371.

Subpart B—Technical Specifications

§ 18.100 ISM frequencies.

(a) The following frequencies and tolerances are allocated for use by ISM equipment:

Frequency	Tolerance	Notes
13.56 MHz	± 6.78 kHz.....	(1)
27.12 MHz	± 160 kHz.....	(1)
40.68 MHz	± 20 kHz.....	(1) (2)
915 MHz	± 13 MHz	(2)
2,450 MHz	± 50 MHz	(1)
5,800 MHz	± 75 MHz	(1)
24,125 MHz	± 125 MHz	(1)

¹Frequencies allocated worldwide for ISM equipment.

²Frequencies allocated for ISM equipment worldwide, except in the United Kingdom and Italy.

³Frequencies allocated for ISM equipment in North and South America only (ITU Region 2).

(b) Other radiofrequency devices, including licensed transmitters, operating on frequencies in any of the bands in paragraph (a) of this section shall be operated on a secondary basis and must accept any interference received from ISM equipment.

§ 18.102 Reduced frequency tolerance for certain ISM equipment.

Medical diathermy and consumer ISM equipment designed to operate in an ISM band, shall not have frequency variations that exceed 70 percent of the tolerance listed in section 18.100(a) after a 5-minute warmup period. Emissions outside this reduced band shall be below the levels specified in section 18.108 for out-of-band emissions.

§ 18.104 General technical requirement.

ISM equipment shall be designed and constructed in accordance with good engineering practice with sufficient shielding and filtering to provide adequate suppression of emissions on frequencies outside the ISM frequency bands.

§ 18.106 In-band emission limits.

ISM equipment operating on a frequency specified in section 18.100 is permitted unlimited conducted and radiated energy in the band specified for that frequency or the band reduced by

§ 18.102, provided emissions from the equipment does not exceed the radiation levels established for that class of equipment by any other U.S. Government agency.

§ 18.108 Out-of-band emission limits.

Radiated emissions from ISM equipment that lie outside the ISM bands in § 18.100 shall not exceed the following table of limits:

OUT-OF-BAND EMISSION LIMITS

Frequency (MHz)	Field Strength (uv/m)	Distance (note 1) (meters)
0.01 to 0.285.....	200 (note 3).....	30
0.285 to 0.49.....	900 (note 3).....	30
0.49 to 1.605.....	200.....	30
1.605 to 3.95.....	900.....	30
3.95 to 30.....	200.....	30
30 to 109.....	30 (500 note 2).....	30
109 to 135.....	30.....	30
135 to 470.....	30 (500 note 2).....	30
470 to 1,000.....	100 (500 note 2).....	30
1,000 to 18,000.....	1,500.....	3

NOTE 1: For certification, measurements are made on a test site and the distance is measured from the ISM equipment under test. For ISM-registration, measurements are made at the user's premises where the equipment is installed and the distance is measured from the perimeter of the building in which the equipment is installed.

NOTE 2: For ISM-registered equipment having RF power outputs in excess of 1000 watts, the permitted level of out-of-band emissions in the above-noted frequency bands may be increased in accordance with the following relations, but in no case shall the level exceed 500 uV/m at 30 meters.

$$\text{Frequency of Emission in the range 30 to 470 MHz) Field Strength} = 30 \sqrt{\frac{\text{RF Power in Watts}}{1000}}$$

$$\text{Frequency of Emission in the range 470 to 1000 MHz) Field Strength} = 100 \sqrt{\frac{\text{RF Power in Watts}}{1000}}$$

This relaxation of the out-of-band emissions does not apply to emissions that fall on frequencies within the TV channel in use at the user's site.

NOTE 3: ISM equipment within 80 km (50 mi) distance of a nondirectional beacon transmitter employed in the aeronautical radio navigation service shall not operate on a frequency that is within 20 kHz of the frequency assigned to such nondirectional beacon.

§ 18.110 Prohibited frequency bands.

The following frequency bands are allocated for safety, search and rescue operations: 490-510 kHz, 2170-2194 kHz, 8354-8374 kHz, 121.5 MHz, 156.8 MHz, 243 MHz. Operation of ISM equipment on these frequencies is prohibited.

§ 18.112 Conducted RF voltage limits.

ISM equipment designed to be connected to low or middle voltage (100 to 600 volts) public utility powerlines that also feed power to residential dwellings shall be capable of limiting the RF voltage conducted back into the powerlines in accordance with the levels specified below when measured

in accordance with the procedure in Bulletin OCE 47—"FCC Test Procedure for Measuring Conducted RF Voltage" (see note under § 18.124).

Conducted RF Voltage Limits in Millivolts (Average Value)

Frequency range in kHz	Consumer ISM equipment (mV)	All other ISM equipment (mV)
10 to 100.....	10 to 1.....	10
100 to 150.....	1.....	10
150 to 200.....	1.....	3
200 to 500.....	1.....	2
500 to 30,000.....	0.1.....	1

*Linear interpolation.

§ 18.114 Exemption for electrosurgical units.

Until further notice, an electrosurgical unit is exempt from complying with out-of-band radiation limits of Section 18.108 only when used pursuant to one of the following conditions:

(a) When used by a licensed medical doctor, dentist, or veterinarian in the performance of surgical procedures, provided the RF energy generated by the unit can only be activated when needed during surgical procedures.

(b) For testing and servicing by a qualified technician in a shielded room.

§ 18.116 Exemption for ultrasonic equipment.

An ultrasonic equipment that complies with the conducted RF voltage limits in § 18.112 when measured using the procedure in FCC Bulletin OCE-47 (see note under § 18.124) is considered to have sufficient RF interference suppression to meet the out-of-band emission limits of section 18.108. Tests to show compliance with section 18.108 are not required, unless such data is specifically requested by the Commission.

§ 18.118 Measurement site.

(a) ISM equipment shall be measured for compliance on an FCC approved test site pursuant to § 2.951, unless there is some compelling reason why the equipment cannot be tested on such a site. Measurements on such a site are mandatory for the following equipment:

- (1) Domestic microwave ovens;
- (2) Consumer ISM products;
- (3) Ultrasonic equipment having less than 500 watts output;
- (4) Medical ISM products.

(b) ISM equipment which, because of its size, power requirements, or other special considerations, cannot be measured on an FCC approved test site may be measured for compliance at the user's premise.

NOTE.—The user's premises are defined for the purposes of this Part as the building where the equipment is being operated.

§ 18.120 Measurement procedure: At a test site.

Unless otherwise specified, ISM equipment required to be measured for compliance with the specifications of this part on an FCC approved test site shall be measured pursuant to the procedures in FCC Bulletin OCE-48—"FCC Test Procedures for ISM Equipment Measured on an Approved Site" (see note under § 18.124).

§ 18.122 Measurement procedure: At the user's premises.

Unless otherwise specified, ISM equipment measured for compliance with the specifications of this part at the user's premise shall be measured pursuant to the procedure in FCC Bulletin OCE-49—"FCC Test Procedure for ISM Equipment Tested at the User's Premises."

§ 18.124 Measurement procedure: Domestic microwave oven.

A domestic microwave oven shall be tested for compliance with the out-of-band emission limits using the procedure in FCC Bulletin OCE-20, "FCC Test Procedure for Microwave Ovens."

NOTE.—Draft measurement procedures are still under consideration for this equipment and will be released as soon as practical. A public notice will be issued announcing their release. When available, copies may be obtained by writing to: Federal Communications Commission, OCE, Room 7306, 2025 M Street NW., Washington, D.C. 20554.

§ 18.128 Measurement procedure: Ultrasonic equipment.

An ultrasonic equipment shall be tested for compliance with the conducted RF voltage limits by using the procedure in FCC Bulletin OCE-47, "FCC Procedure for Measuring RF Line Conducted Voltage" (see note under § 18.124).

§ 18.130 Measurement procedure: Medical diathermy equipment.

A medical diathermy equipment, excluding an electrosurgical unit shall be tested for compliance with the out-of-band emission limits using the procedure in Bulletin OCE-39, "FCC Test Procedure for Medical Diathermy Equipment."

Subpart C—Interim Requirements for Existing ISM Equipment

§ 18.200 ISM equipment manufactured before (date to be specified).

In lieu of meeting the requirements in subparts A and B of this part, ISM equipment manufactured before (date to be specified) shall comply with all the conditions in paragraphs (a) through (d) of this section. An individual license is not required for ISM equipment that complies with these requirements. These interim provisions shall terminate on (date to be specified). All ISM equipment operated after (10 years after effective date of new rules) shall comply with the requirements in subpart A and B of this part.

(a) The equipment complies with the appropriate technical specifications in §§ 18.202-18.206 for the particular class of equipment.

(b) The equipment has been type approved or certificated and the certification is attached to the equipment or is prominently posted in the room in which it is being operated.

(c) If the equipment was certificated or type approved before (date to be specified) renewal of such certificate or type approval is not required, provided no change is made to the equipment. In the event that the equipment is changed or modified so that the data previously reported to the Com-

mission is no longer valid, or if the Commission has reason to believe that operation of the equipment may be inconsistent with the terms of the certificate or type approval, the Commission may require a new certification pursuant to the procedures in subpart B of this part. Operation of such equipment must terminate (10 years after effective date of rules) or thereafter must comply with requirements in subpart A and B of this part.

(d) Ultrasonic equipment operating on frequencies below 90 kHz and generating less than 500 watts of radiofrequency power may be operated without a license, type approval or certification, provided it complies with all other applicable requirements in § 18.202.

§ 18.202 Technical specifications for ultrasonic ISM equipment manufactured before (date to be specified).

(a) Under varying conditions of operation, emissions from ultrasonic equipment shall not exceed the following limits:

Frequency	Distance in meters	Field strength in $\mu\text{V}/\text{m}$
Below 490 kHz.....	300	2400 F(kHz).
490 to 1600 kHz.....	30	24000 F(kHz).
Above 1600 kHz.....	30	15.

(b) The operation of ultrasonic equipment on frequencies below 490 kHz using radiofrequency power in excess of 500 watts shall be in compliance with the requirements of this section except that the maximum radiated field permitted may be increased as the square root of the ratio of the generated radiofrequency power to 500 watts: *Provided*, That the field shall in no case exceed the field of 10 microvolts per meter at 1,600 meters (1 mile), and provided further, that equipment used in predominantly residential areas shall not be permitted the increase in field with power as indicated in this paragraph.

(c) On any frequency above 490 kHz, the radiofrequency voltage appearing on each power line shall not exceed 1,000 microvolts. Measurement shall not exceed 200 microvolts. On any frequency below 490 kHz, the radiofrequency voltage appearing on each power line shall be made from each power line to ground with the equipment itself both grounded and ungrounded.

§ 18.204 Technical requirements for industrial heating equipment manufactured before (date to be specified).

(a) Industrial heating equipment operating on an ISM frequency may be operated with unlimited radiation on

that frequency. Equipment operated on other frequencies must suppress radiation on the fundamental carrier frequency as well as other frequencies as required by this section. Industrial heating equipment shall include any apparatus which generates and uses RF energy for or in connection with industrial heating operations utilized in manufacturing or production process.

(b) Industrial heating equipment designed for operation on an ISM frequency shall be adjusted to operate as close to that ISM frequency as practicable.

(c) Radiation of radiofrequency energy from any industrial heating equipment on any frequency below 5725 MHz, except ISM frequencies, shall be suppressed so that the radiated field strength does not exceed 10 microvolts per meter at a distance of one mile or more from the equipment.

(d) Radiation of radiofrequency energy from any industrial heating equipment on any frequency above 5725 MHz, except ISM frequencies, shall be reduced to the greatest extent practicable.

(e) Filtering between the industrial heating equipment and powerlines must be provided to the extent necessary to prevent the radiation of energy from power lines on frequencies other than ISM frequencies with a field strength in excess of 10 microvolts per meter at a distance of 1 mile (1,600 meters) or more from the industrial heating equipment and at a distance of 50 feet from the powerline.

§ 18.206 Technical requirements for medical diathermy and miscellaneous ISM equipment manufactured before (date to be specified).

(a) Medical diathermy and miscellaneous ISM equipment manufactured before (date to be specified) and operating on an assigned ISM frequency may be operated with unlimited radiation on that frequency. Spurious and harmonic emissions on frequencies other than on the assigned ISM frequencies from each equipment shall be suppressed so that they do not exceed 25 microvolts per meter at a distance of 300 meters or more from the equipment.

(b) Medical diathermy and miscellaneous ISM equipment operating on a frequency outside the ISM bands shall limit all emissions to 15 microvolts per meter at a distance of 300 meters or more from the equipment.

(c) The maximum radiated field from miscellaneous equipment generating in excess of 500 watts may be increased as the square root of the ratio of the generated power to 500 watts, provided that the radiated field does

not exceed 10 microvolts per meter at 1600 meters.

[FR Doc. 78-28188 Filed 10-5-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 611 and 672]

GROUND FISH OF THE GULF OF ALASKA

Fishery Management Plan Amendment;
Proposed Implementary Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of approval of fishery management plan amendment; proposed regulations.

SUMMARY: An amendment to the fishery management plan (FMP) for the Gulf of Alaska Groundfish Fishery submitted by the North Pacific Fishery Management Council is approved. This amendment increases the portion of each species' optimum yield (OY) set aside as a reserve. Amendments to the regulations which were proposed to implement to FMP are proposed. These amendments set forth the procedures and criteria to be used by the Regional Director of the National Marine Fisheries Service in making allocations from the reserve to Total Allowable Level of Foreign Fishing (TALFF) for harvesting by vessels of foreign nations.

DATE: Comments are invited until November 17, 1978.

ADDRESS: Comments should be addressed to the Assistant Administrator for Fisheries, National Oceanic Atmospheric Administration, Washington, D.C. 20235. Please mark "Alaska Groundfish" on outside of the envelope.

FOR FURTHER INFORMATION CONTACT:

Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, telephone number 907-586-7221.

SUPPLEMENTARY INFORMATION: On April 21, 1978, a FMP for the Gulf of Alaska Groundfish Fishery prepared by the North Pacific Fishery Management Council (the Council) was approved (43 FR 17242). That FMP established conservation and management measures for both the foreign and domestic groundfish fisheries in the Gulf of Alaska under the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended. Proposed regulations to implement the FMP were also published on April 21, 1978 (43 FR 17013

for foreign vessels; 43 FR 17242 for vessels of the United States).

On August 7, 1978, an amendment of the FMP submitted by the Council was published in the FEDERAL REGISTER (43 FR 34825). That amendment extended the established optimum yields (OY's), statement of U.S. capacity, and total allowable level of foreign fishing (TALFF) from December 31, 1978 to October 31, 1979.

On August 28, 1978, the Council submitted another amendment to the FMP for approval. This amendment raises the pollock reserve to 133,800 metric tons, with appropriate increases in the reserves of species that will be taken incidental to a directed fishery for pollock, in order to assure that an adequate supply of fish is available for harvest through October 31, 1979 by U.S. fishermen in potential joint venture operations involving sale of U.S. caught fish to foreign processing vessels at sea.

The proposed implementary regulations for this amendment set forth the procedure for making allocations from this reserve to the TALFF during the plan year. In order to assure that any portion of the reserve that will not be utilized by U.S. fishermen is made available to foreign fisheries in an expeditions manner, the proposed regulations provide that 25 percent of the initial reserve will be allocated to the TALFF every 2 months (bimonthly), beginning January 2, 1979, unless it is determined by the Regional Director that United States fishing vessels will harvest all of the remaining reserve during the remainder of the plan year. If such a determination is made, the Regional Director will withhold from allocation to the TALFF all or part of the scheduled bimonthly allocation of the reserve.

A determination that the remaining reserves will be harvested by United States fishing vessels would be based on consideration of: (1) Reported U.S. catches by species and area; (2) projected U.S. catch and effort by species and area; and (3) projected and utilized processing capacity of United States fish processors. Interested persons are afforded a period of 15 days in which to submit comments supported by data or other factual material prior to the time of making each determination. If, on the basis of such a determination, the Regional Director withholds all or a portion the normal bimonthly allocation to the TALFF, and the subsequent performance of United States fishing vessels fails to achieve the anticipated harvest levels upon which the determination was made, then any amount of fish in the reserves previously withheld from allocation are to be added to the next bimonthly allocation to TALFF.

The Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has determined that this amendment to the FMP is (1) necessary and appropriate to the conservation and management of Gulf of Alaska groundfish resources; (2) is consistent with the national standards and other provisions of the Act and other applicable laws; and (3) does not constitute a major Federal action requiring the preparation of an environmental impact statement.

NOTE.—It has been determined that this amendment does not require a Regulatory Impact Analysis under Executive Order 12044.

Signed at Washington, D.C., this 29th day of September, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

The FMP (43 FR 17244, Apr. 21, 1978) is revised as follows:

FEDERAL REGISTER, page 17245—No. 2

Recommend the initial foreign allocation of surplus stocks be computed by the following formula: Initial Foreign Allocation = (0.8 OY) — DAH — Special JV Reserve. The 20 percent of OY and the Special Joint Venture Reserves are to be reevaluated beginning January 2, 1979 and reallocated to the domestic or foreign fisheries following reassessment of U.S. development—both in terms of Joint Venture activities and delivery to U.S. shorebased processors.

Page 17245—No. 3: Sentence 1, add after " . . . to U.S. processors" . . . :

. . . and later reallocate from special joint reserves the amounts needed to handle the delivery of raw fish to foreign processors by U.S. fishermen.

(Delete all of sentence 2.)

Page 17312—Section 5.2.1 Domestic annual capacity (DAC).

Add an additional paragraph directly after paragraph No. 1 to read as follows:

In addition to the U.S. shore-based harvesting and processing capacity surveyed, at least two joint U.S./foreign ventures intend to operate in the management areas. Both operations will buy pollock and other groundfish from American fishermen delivered directly to foreign processing ships in the FCZ. The catching and processing capacity identified in this plan for those ventures has been furnished by the two joint U.S./foreign firms active in developing these enterprises.

Page 17312—Section 5.2.1.2 Processing capacity.

And a paragraph directly after paragraph No. 4 to read as follows:

In addition to the purely domestic processing capacity as indicated in the preceding, two U.S./foreign ventures intend to fish in the Gulf of Alaska with foreign processing ships receiving raw fish, primarily pollock, from U.S. fishing vessels. One venture

has a stated capacity of 300 metric tons of raw product per day while the other has capacity up to 600 tons per day based on up to three processing ships receiving 200 tons apiece. Based on these figures, a total of 900 tons per day for an estimated 200 days, their capacity is 180,000 metric tons.

Page 17312—Section 5.2.1.3 Freezing capacity.

Add a second paragraph to read as follows:

The intended U.S./foreign joint ventures will be working solely on groundfish and their capacity is figured for a 200-day fishing year. The two ventures, involving up to four processing ships, are capable of processing and freezing 900 tons of raw product a day, or 180,000 metric tons for the year.

Page 17312—Section 5.2.1.4 Holding capacity.

Add a second paragraph to read as follows:

Holding capacity for the foreign processing ships that might be involved in joint U.S./foreign ventures in the Gulf of Alaska is not considered a factor since the product will be moved on a regular basis.

Page 17313—Section 5.2.2 Expected domestic annual harvest (DAH).

Delete paragraph 2 and insert the following:

In order to ascertain just how much of the total domestic capacity would be utilized in 1978, the industry representatives were asked to furnish their projections for moving into the groundfish fisheries. Considerable planning has been done to establish joint ventures or contracts for foreign processing ships to purchase raw fish directly from U.S. fishing vessels. This form of domestic utilization will be allowed during the last four months of 1978 and for the fishing year 1979. The expected domestic annual harvest (DAH) for 1978 however, has been considered only from the standpoint of deliveries to domestic processing plants. A special J/V reserve allocation has been created to handle the potential joint venture catches and is described fully in Section 7.0.

Page 17313—Section 5.2.2.2 Delivered to foreign factory ships.

Revise to read as follows:

Delivery of U.S.-caught groundfish to foreign processing vessels has been permitted during the last four months of 1978. It is expected that such delivery will again be permitted for the period from November 1st, 1978, through October 31st, 1979. The two operations that have been currently issued permits estimate a take of 155,000 metric tons of pollock and associated by-catch during that period. If, in fact, this quantity is necessary, it will be reallocated from the reserve to DAH as their ability to catch and process these quantities becomes apparent.

Page 17314—Section 4.0 Foreign allowable catch (FAC).

Completely revise to read as follows:

United States fishermen will have reserved for their use during the 1979 fishing year any amount of any species up to the optimum yield based on credible projections of catch. The optimum yield (OY) of any species or species group shall not be exceeded by the all nation fishery. Optimum yields for each groundfish species or species group in the Gulf of Alaska are shown in Table 58. Expected domestic annual harvest (DAH) projections are shown in Table 61. The foreign allowable catch (FAC) will be determined and applied as described below.

Because: (1) Growth of the domestic groundfish fishery cannot be accurately forecast; (2) constraints against growth of the domestic fishery up to the level of optimum yield are contrary to the intent of Pub. L. 94-265; (3) optimum yield should neither be exceeded nor should it go unrealized; and (4) recognizing that domestic fishermen are often restricted in their activity during a season, it is, therefore, not unreasonable to make in-season amendments to measures applying to foreign fishermen. FAC will be set in a manner so as to allow in-season adjustments between foreign and domestic fisheries. Such adjustments will be dictated by domestic fishery performance and will be accomplished as follows:

The initial FAC for each species for the 1979 fishing year will equal DAH subtracted from 80 percent of OY less specific amounts for each species held in reserve until January 2, 1979 at which time progress of the proposed joint ventures using foreign processing ships can be evaluated.

Initial FAC will be computed as follows:
FAC = (0.8 OY) - DAH - special J/V reserve.
The amount of special J/V reserve for each species is shown in the following table.

	Metric tons
Pollock.....	100,000
Other rockfish.....	2,000
POP.....	3,000
Sablefish.....	1,500
Pacific cod.....	3,000
Flounders.....	3,000
Squid.....	500
Atka mackerel.....	500
Other species.....	1,500

The reserve (20 percent of OY + amounts in the preceding table) will be apportioned to foreign or domestic fisheries as the season progresses on the basis of continuing reappraisals of DAH. The gulfwide schedule of OY/reserve/DAH/FAC is given in table 62. FAC and reserve have also been apportioned to individual statistical areas (table 64).

Page 17317—Section 8.3.1.1(D)(2).
Revise to read as follows:

(2) December 1 to May 31: When the total incidental trawl catch of halibut in any statistical area exceeds that amount listed below, that statistical area shall be closed to domestic trawling for the remainder of this period.

Shumagin—29 mt.
Chirikof—18 mt.
Kodiak—34 mt.
Yukutat—17 mt.
Southeast—14 mt.

Page 17315—Change table 62 to read as follows:

TABLE 62.—Derivation of Foreign Allowable Catch (FAC)¹ for Gulf of Alaska Groundfish in 1978-79

[In thousand metric tons]

Species	OY	Reserve	Additional reserve for possible J/V ventures	DAH	FAC ¹
Pollock.....	168.8	33.8	100.0	14.2	20.8
Cod.....	34.8	7.0	3.0	15.5	79.3
Flounders.....	33.5	6.7	3.0	7.2	16.6
Pacific Ocean perch.....	25.0	4.9	3.0	1.1	16.0
Other rockfish.....	7.6	1.5	2.0	2.0	2.1
Sablefish.....	13.0	2.6	1.5	4.0	4.9
Atka mackerel.....	24.8	5.0	.5	0	19.3
Squid.....	2.0	.4	.5	0	1.1
Other species.....	16.2	3.2	1.5	.5	11.0
Totals.....	325.7	65.1	115.0	44.5	101.1
Total reserve.....		180.1			

¹ Initial FAC; may be increased as reserve is apportioned during year.² The area landward of the 500-m isobath and west of 157° west longitude is designated as a longline fishery for Pacific cod.

Proposed amendments to regulations 50 CFR 672: (Revise Table I, page 50 CFR Part 672 (43 FR 17243) and 50 CFR 611.92 (43 FR 17013), 17243, to read as follows:

TABLE I—Metric Tons
[OY/Reserve/DAH Schedule, by area, in thousand metric tons]

Species	Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
Pollock:						
OY.....	57.0	54.4	40.3	12.5	4.1	168.8
Reserve.....	45.2	43.1	32.4	9.9	3.2	133.8
DAH.....	4.8	4.6	3.4	1.1	.3	14.2
Cod:						
OY.....	9.6	4.1	15.3	4.3	1.5	34.8
Reserve.....	2.73	1.15	4.42	1.27	.43	10.0
DAH.....	4.3	1.8	6.8	1.9	.7	15.5
Flounders:						
OY.....	10.4	2.7	12.0	6.4	2.0	33.5
Reserve.....	3.0	.8	3.5	1.8	.6	9.7
DAH.....	2.2	.6	2.6	1.4	.4	7.2
Pacific Ocean perch:						
OY.....	2.7	2.7	5.2	7.9	6.5	25.0
Reserve.....	.9	.9	1.6	2.5	2.0	7.9
DAH.....	.1	.1	.2	.4	.3	1.1
Other rockfish:						
OY.....	.3	.2	.6	3.4	3.1	7.6
Reserve.....	.1	.1	.3	1.6	1.4	3.5
DAH.....	.1	Trace	.2	.9	.8	2.0
Sablefish:						
OY.....	2.1	1.4	2.4	3.4	3.7	13.0
Reserve.....	.6	.4	.7	1.1	1.2	4.1
DAH.....	.1	Trace	.1	.8	3.0	4.0
Atka mackerel:						
OY.....	4.4	3.6	15.8	1.0	0	24.8
Reserve.....	1.0	.8	3.5	.2	0	5.5
DAH.....	0	0	0	0	0	0
Squid:						
OY.....	.4	.4	.4	.4	.4	2.0
Reserve.....	.2	.2	.2	.2	.1	.9
DAH.....	0	0	0	0	0	0
Other species:						
OY.....	4.4	3.6	5.0	2.1	1.1	16.2
Reserve.....	1.3	1.0	1.5	.8	.3	4.7
DAH.....	.1	.1	.2	.1	Trace	.5

(2) Revise 50 CFR 672.3(d) to read as follows:

§ 672.3 Domestic annual harvest, optimum yield, and reserve.

(d) The reserves set out in table I of this section represent 20 percent of OY, plus an additional amount set aside as a special reserve for possible joint venture operations.

(1) The reserves for all species will be allocated to the total allowable level of foreign fishing (TALFF) every 2 months (bimonthly) as soon as practicable after each of the following dates, in the amount indicated:

January 2—25 percent.

March 2—25 percent.

May 2—25 percent.

July 2—25 percent.

(2) The Regional Director may withhold from allocation all or part of each of the bimonthly allocations in

paragraph (d)(1) of this section if he/she determines that the remaining reserves will be harvested by fishing vessels of the United States. Such a determination shall be based upon consideration of the following factors:

(i) Reported U.S. catches by species and area;

(ii) Projected U.S. catch and effort by species and areas;

(iii) Projected processing capacity by U.S. processors; and

(iv) Utilized processing capability by U.S. processors.

(3) Interested persons may file comments with the Regional Director concerning whether or not, and the extent to which vessels of the United States will harvest all of the remaining reserve during the plan year.

(4) Comments may be submitted no later than 15 days prior to the dates specified in paragraph (d)(1) of this section.

(5) The Regional Director shall consider any timely comments filed in ac-

cordance with this section, in making the determination specified in paragraph (d)(2) of this section.

(6) The Regional Director shall compile, in aggregate form, the most recent available reports on level of catch and effort by vessels of the United States in the groundfish fishery. This data shall be open for public inspection during business hours at the National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during each 15 day period.

(7) If domestic fishermen fail to utilize any portion of a 25 percent bimonthly allocation withheld from allocation by the Regional Director pursuant to paragraph (d)(2) of this section, the unutilized portion shall be added to the amount allocated to the TALFF's in the next bimonthly allocation.

43 FR 17014: (1) Revise 611.92(b)(1), table I to read as follows:

TABLE 1.—Gulf of Alaska Groundfish Fishery: Initial Foreign Fishing Allocations by Nation and Area for 1978/79 (Metric Tons) Reserves
(A) Shumagin Area

Nation	Pollock	Pacific ocean perch	Other rockfishes	Flounders	Sablefish	Atka mackerel	Pacific cod ¹	Squid	Other species
Japan.....									
Korea.....									
Mexico.....									
Poland.....									
USSR.....									
Initial TALFF.....									
Shumagin area.....	7,000	1,700	100	5,200	800	3,400	2,570	200	3,000
Reserves.....	45,200	900	100	3,000	600	1,000	2,730	200	1,300

(B) Chirikof Area

Japan.....									
Korea.....									
Mexico.....									
Poland.....									
USSR.....									
Initial TALFF.....									
Chirikof area.....	6,700	1,700	100	1,300	500	2,800	1,150	200	2,400
Reserves.....	43,100	900	100	800	400	800	1,150	200	1,000

(C) Kodiak area

Japan.....									
Korea.....									
Mexico.....									
Poland.....									
USSR.....									
Initial TALFF.....									
Kodiak area.....	5,000	3,300	100	5,900	900	12,300	4,080	200	3,400
Reserves.....	32,400	1,600	300	3,500	700	3,500	4,420	200	1,500

(D) Yakutat Area

Japan.....									
Korea.....									
Mexico.....									
Poland.....									
USSR.....									
Initial TALFF.....									
Yakutat Area.....	1,500	5,100	900	3,200	1,300	800	1,130	200	1,400
Reserves.....	9,900	2,500	1,600	1,800	1,100	200	1,270	200	600

¹Of the total Pacific Cod TALFF (including the reserve), only 6,233 metric tons may be caught west of 157° W. longitude.

TABLE 1.—Gulf of Alaska Groundfish Fishery: Initial Foreign Fishing Allocations by Nation and Area for 1978/79 (Metric Tons)

Reserves—Continued

(F) Southeast Area

Nation	Pollock	Pacific ocean perch	Other rockfishes	Flounders	Sablefish	Atka mackerel	Pacific cod ¹	Squid	Other species
Japan.....									
Korea.....									
Mexico.....									
Poland.....									
USSR.....									
Initial TALFF.....									
Southeast area.....	600	4,100	900	1,000	0	0	370	300	800
Reserves.....	3,200	2,000	1,400	600	1,200	0	430	100	300
Total initial TALFF..	20,800	16,000	2,100	16,600	4,900	19,300	9,300	1,100	11,000
Reserves.....	133,800	7,900	3,500	9,700	4,100	5,500	10,000	900	4,700

(2) Revise 611.92(b)(1) as follows:

(b) ***

(1)(i) The initial TALFF's set out in table 1 of this section represent the amount of fish remaining after the expected domestic annual harvest (DAH) and additional reserves (in the amounts indicated in table 1) were subtracted from the optimum yields (OY's) for each species.

(A) ***

(B) The reserves for all species will be allocated to the TALFF's every 2 months (bimonthly) as soon as practicable after the following dates, in the amount indicated:

January 2—25 percent.

March 2—25 percent.

May 2—25 percent.

July 2—25 percent.

(C) The Regional Director may withhold from allocation all or part of each of the bimonthly allocations in paragraph (b)(1)(i)(B) of this section, if he/she determines that the remaining reserves will be harvested by fish-

ing vessels of the United States. Such a determination shall be based upon consideration of the following factors:

(1) Reported U.S. catches by species and area;

(2) Projected U.S. catch and effort by species and areas;

(3) Projected processing capacity by U.S. processors; and

(4) Utilized processing capability by U.S. processors.

(D) Interested persons may file comments with the Regional Director concerning whether or not, and the extent to which, vessels of the United States will harvest all of the remaining reserve during the remainder of the plan year.

(1) Comments may be submitted no later than 15 days prior to the dates specified in paragraph (b)(1)(i)(B) of this section.

(2) The Regional Director shall consider any timely comments filed in accordance with this section, in making the determination specified in paragraph (b)(1)(i)(C) of this section.

(3) The Regional Director shall compile, in aggregate form, the most recent available reports on level of catch and effort by vessels of the United States in the groundfish fishery. This data shall be open for public inspection during business hours at the National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau Alaska 99802, during each 15 day period.

(D) If domestic fishermen fail to utilize any portion of a 25 percent bimonthly allocation withheld from allocation by the Regional Director pursuant to paragraph (b)(1)(i)(C) of this section, the unutilized portion shall be added to the amount allocated to the TALFF's in the next bimonthly allocation.

50 CFR 611.20(c), Table I is revised as follows:

50 CFR 611.20(c), table 1 is revised as follows:

Species code	Species	Ocean area	Initial TALFF (metric tons)	U.S. capacity review dates
006.....	Cod, Pacific.....	Gulf of Alaska.....	9,300	January 2. March 2. May 2. July 2.
002 and 003.....	Flounders, including Yellowfin.....	do.....	16,600	Do.
008.....	Mackerel, Atka.....	do.....	19,300	Do.
011.....	Perch, Pacific Ocean.....	do.....	16,000	Do.
005.....	Pollock.....	do.....	20,800	Do.
012.....	Rockfishes, other than Pacific Ocean Perch.....	do.....	2,100	Do.
007.....	Sablefish.....	do.....	4,900	Do.
001.....	Squid.....	do.....	1,100	Do.
099.....	Other species.....	do.....	11,000	Do.

Delete note 2.

¹ Does not include an additional amount held in reserve.

[FR Doc. 78-28063 Filed 10-5-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 2]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Period June 1, 1978, Through May 31, 1979); Cheddar Cheese

The CCC monthly sales list for the period June 1, 1978, through May 31, 1979, published at 43 FR 29819 (July 11, 1978), as amended at 43 FR 35737 (August 11, 1978), is further amended by deleting the provisions of section 29 entitled "Cheddar Cheese—Unrestricted Use Sales (Instore—Carlot Quantities)."

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427).)

Effective date: August 31, 1978, 2:30 p.m. (e.d.t.).

Signed at Washington, D.C., on October 2, 1978.

RAY FITZGERALD,
Executive Vice President,

Commodity Credit Corporation.

[FR Doc. 78-28283 Filed 10-5-78; 8:45 am]

[3410-15]

Rural Electrification Administration

ASSOCIATED ELECTRIC COOPERATIVE, INC.

Intent To Prepare Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration intends to prepare an environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with possible financing for Associated Electric Cooperative, Inc., P.O. Box 754, Springfield, Mo. 65801.

This financing is related to proposed construction of approximately 55 miles of 500 kV transmission line in the counties of New Madrid, Pemiscott, and Dunklin, Mo., and Mississippi County, Ark.

Interested persons are invited to submit comments which may be helpful in preparing the draft EIS.

Comments should be forwarded to the Assistant Administrator—Electric, Rural Electrification Administration,

U.S. Department of Agriculture, Washington, D.C. 20240, with a copy to Associated, whose address was given above. Additional information may be obtained at the borrower's office during regular business hours.

Any financing which may be made pursuant to this possible application will be subject to, and the 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 29th day of September 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-28261 Filed 10-5-78; 8:45 am]

[3410-15]

ASSOCIATED ELECTRIC COOPERATIVE, INC., AND WESTERN FARMERS ELECTRIC COOPERATIVE

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has issued a final environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with possible financing assistance for Associated Electric Cooperative, Inc., P.O. Box 754, Springfield, Mo. 65801, and for Western Farmers Electric Cooperative, P.O. Box 429, Anadarko, Okla. 73005.

The anticipated financing assistance would provide Associated and Western Farmers with the financing required to participate with the Public Service Co. of Oklahoma in the joint construction of the Black Fox Station, a 2,300 MW (net) nuclear generating plant, to be located in Rogers County, Okla. Also, related to the project would be 278 circuit miles of new transmission lines in northeastern Oklahoma, northwestern Arkansas, and southwestern Missouri to interconnect with existing transmission systems.

Additional information may be secured on request, from Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Admin-

istration, U.S. Department of Agriculture, Washington, D.C. 20250. The final environmental impact statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue SW., Washington, D.C., Room 4314, or at the headquarters of Associated Electric Cooperative, Inc., or Western Farmers Electric Cooperative whose addresses are given above.

Final action may be taken with respect to this matter after November 6, 1978.

Any loan guarantee which may be made 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 REA 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 29th day of September 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-28262 Filed 10-5-78; 8:45 am]

[3410-15]

MINNKOTA POWER COOPERATIVE

Negative Determination; Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination on the need for an environmental impact statement by REA in connection with the construction of a 35 MW combustion turbine by Minnkota Power Cooperative (Minnkota). The combustion turbine will be located on a Minnkota-owned site located 1.5 miles northeast of Larimore in Grand Forks County, N. Dak. Funding for the turbine is proposed to be obtained from non-REA sources.

REA has prepared an environmental assessment on the proposed action. Minnkota has prepared an environmental analysis of the proposed action in which REA had extensive input. The environmental analysis is in compliance with REA's environmental guidelines and numerous commitments have been made by Minnkota to

satisfy Federal, State, and local requirements.

Responsible officials have been contacted in their areas of expertise, and no objections to the project were expressed. Rare and endangered species, prime and unique farmlands, archaeological and historic sites, and other potential impacts of the project are adequately considered, and we do not anticipate any significant effects as a result of the project. Findings related to the compliance with applicable statutes, Executive orders, or memorandums have been made and attached to the environmental assessment.

Our independent evaluation of the proposed project leads us to conclude that installation of this turbine is not a major Federal action that would significantly affect the quality of the human environment.

Based on REA's independent evaluation, our environmental assessment, our review of the environmental analysis and REA experience with installations of this type and the subsequent environmental effects, a negative determination was made under section 5K of REA Bulletin 20-21.

Copies of the environmental assessment with the attached list of non-NEPA findings and environmental analysis may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Final REA action with respect to this matter may be taken after October 23, 1978, but only after REA has reached satisfactory conclusions with respect to its environmental effects and under procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 29th day of September 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-28260 Filed 10-5-78; 8:45 am]

[3410-15]

WESTERN FARMERS ELECTRIC COOPERATIVE

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a final environmental impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a request for financing assistance from Western Farmers Electric Cooperative, P.O. Box 429, Anadarko, Okla. 73005.

This request includes financing for a 376 MW (net) coal-fired electric gener-

ating station and 29 miles of transmission lines and related facilities to be located near Hugo, Okla.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The final environmental impact statement 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., Room 4043, or at the office of Western Farmers Electric Cooperative, whose address was given above.

Final REA action may be taken with respect to this matter after November 6, 1978.

Any financial assistance which may be made 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 REA 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 29th day of September 1978.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc. 78-28259 Filed 10-5-78; 8:45 am]

[3410-05]

Office of the Secretary

ADVISORY COMMITTEE ON EXPORT SALES REPORTING

Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following Committee meeting:

Name: Advisory Committee on Export Sales Reporting.

Date: October 23, 1978.

Time: 1 to 4 p.m.

Place: Room 218-A, Administration Building, U.S. Department of Agriculture, 1400 Independence Avenue, Washington, D.C. 20250.

Type of meeting: Open.

Contact person: Dr. Kelly Harrison, General Sales Manager, USDA, Washington, D.C. 20250, telephone 202-447-5651.

Summary minutes: May be obtained from the Office of the General Sales Manager, USDA, Washington, D.C. 20250.

Purpose: On August 1, 1978, the Secretary of Agriculture created the Advisory Committee on Export Sales Reporting to review the present reporting requirements and make recommendations to strengthen and improve the effectiveness of the monitoring capability.

Agenda: 1 to 4 p.m.—A discussion of the organization, functioning, and planning for future activities of the Advisory Committee.

Dated: October 2, 1978.

KELLY HARRISON,
General Sales Manager and Executive Secretary, Advisory Committee for Export Sales Reporting.

FR Doc. 78-28284 Filed 10-5-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 33091; Order 78-9-122]

ALLEGHENY AIRLINES, INC., ET AL.

Order Regarding Florida Service Case

Issued under delegated authority, September 28, 1978.

By order 78-7-128, July 25, 1978, the Board instituted the *Florida Service Case*, docket 33091, to consider whether the public convenience and necessity require new or improved authority between and among Fort Lauderdale, Gainesville, Jacksonville, Melbourne, Miami, Orlando, Panama City, Pensacola, Tallahassee, Tampa-St. Petersburg-Clearwater, West Palm Beach, Atlanta, Mobile, and New Orleans.

In addition, the Board delegated to the administrative law judge the authority to consolidate any applications which conform to the scope of the proceeding. The following listed applications conform to the scope of the issues in the *Florida Service Case*:

Allegheny Airlines, Inc., docket 33255.
Air Florida, Inc., docket 33272.
Braniff Airways, Inc., docket 33246.
Continental Air Lines, Inc., docket 33263.
Delta Air Lines, Inc., docket 33222 (with the exception of the request to serve Daytona Beach).
Frontier Airlines, Inc., docket 33273.
National Airlines, Inc., docket 33271.
North Central Air Lines, Inc., docket 33259.
Northwest Airlines, Inc., docket 33198.
Piedmont Aviation, Inc., docket 33245.
Ozark Air Lines, Inc., docket 33282.
Southeast Air Lines, Inc., docket 33207.
Southern Airways, Inc., docket 31680 (amendment No. 1).
Texas International Airlines, Inc., docket 33194.
Trans World Airlines, Inc., docket 33261.
Western Air Lines, Inc., docket 33251.

In addition, American's application in docket 33256, as amended, is within the scope of the issues insofar as it seeks authority between New Orleans, Tampa/St. Petersburg/Clearwater, Orlando, West Palm Beach, Fort Lauderdale, and Miami.

The above listed applications conform to the scope of the issues in the *Florida Service Case*, and it is found that consolidation of those applications will be conducive to the proper dispatch of the Board's business and

to the ends of justice and will not unduly delay the proceeding.

By motion filed on September 20, 1978, Coastal Airlines, Inc., D. 31917, has requested leave to withdraw as a party. No objections have been filed. Accordingly, it is found that it is in the public interest to permit Coastal to withdraw as a party to the *Florida Service Case*.

Petitions for leave to intervene in the above-entitled proceeding have been filed by Dade County, Fla., and the Greater Miami Traffic Association; the city of Mobile, Ala., and the Mobile Area Chamber of Commerce; the Panama City-Bay County Airport and Industrial District and the Bay County Chamber of Commerce; and the county of Volusia, Fla.

Pursuant to authority duly delegated by the Board in its regulations, 14 CFR 385.11, it is found that the petitioners have sufficient economic interest in this proceeding to justify their participation as parties.

Accordingly, it is ordered:

1. That the following applications be and they hereby are consolidated for hearing and decision with the *Florida Service Case*, docket 33091: American Airlines, Inc., docket 33256, as amended (consolidated to the extent it seeks authority between New Orleans, Tampa/St. Petersburg/Clearwater, Orlando, West Palm Beach, Fort Lauderdale, and Miami); Allegheny Airlines, Inc., docket 33255; Air Florida, Inc., docket 33272; Braniff Airways, Inc., docket 33246; Continental Air Lines, Inc., docket 33263; Delta Air Lines, Inc., docket 33222 (with the exception of the request to serve Daytona Beach); Frontier Airlines, Inc., docket 33273; National Airlines, Inc., docket 33271; North Central Air Lines, Inc., docket 33259; Northwest Airlines, Inc., docket 33198; Ozark Air Lines, Inc., docket 33282; Piedmont Aviation, Inc., docket 33245; Southeast Air Lines, Inc., docket 33207; Southern Airways, Inc., docket 31680 (amendment No. 1); Texas International Airlines, Inc., docket 33194; Trans World Airlines, Inc., docket 33261; and Western Air Lines, Inc., docket 33251;

2. That the petitions for leave to intervene filed by Dade County, Fla., and the Greater Miami Traffic Association; the city of Mobile, Ala., and the Mobile Area Chamber of Commerce; the Panama City-Bay County Airport and Industrial District and the Bay County Chamber of Commerce; and the county of Volusia, Fla., be and they hereby are granted;

3. That the motion of Coastal Airlines, Inc., to withdraw as a party be and it hereby is granted;

4. Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within

10 days after the date of service of this order; and

5. This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order shall be published in the *FEDERAL REGISTER*.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28277 Filed 10-5-78; 8:45 am]

[6320-01]

[Docket Nos. 32327, etc.; Order 78-9-1531]

DHL AIRWAYS, INC., ET AL.

Order Regarding Policy Regarding Public Need for Charter Services

Former large irregular air carrier investigation, dockets 32327, 33361, 33362, 33363; *Alaska International Air Certification Case*, docket 29237; *AIA Control Case*, docket 29237; DHL Airways, Inc., docket 31540; Harold S. Low and Lawrence Rosenthal, dockets 33233, 33232; Maverick International, Inc., dockets 33337, 33338; Air Fleets International, Inc., dockets 33285, 33286, 33287; David Travels, Inc., dockets 33310, 33311; Development International, dockets 33291, 33292; Arthurs Travel Center, Inc., docket 32630.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

In our decision adopted on July 21, 1978, order 78-7-106, we announced our basic policy concerning admission of new entrants into the supplemental air carrier industry, defined the scope of the issues and established the procedural ground rules for this investigation, and requested comments from interested persons. We made some modest procedural adjustments in order 78-9-26, September 7, 1978.

Comments basically supporting our proposed policy regarding the public need for charter services have been filed by Jet Fleet Corp., Inc. and Central American Air Taxi, Inc. Transocean Airlines, Inc. filed comments urging us to provide for a gradual implementation of new supplemental operating authority by way of a transition period similar to the one established in the recently enacted all-cargo legislation. Specifically, Transocean recommends that new authority issued to currently authorized carriers and former large irregular and supplemental carriers become effective as soon as possible and that all other authority become effective 1 year later. Global American Transport Co. opposes Transocean's request, arguing that condi-

tions today are completely different from those of 20 years ago, so the former large irregular operators are not entitled to a preferred position.

Central American and Alaska International Air, Inc. (AIA) filed petitions for reconsideration, urging a change in the scope of the case and a waiver of our environmental regulations.¹ Central American asks us to include the issue of charter transportation (1) among U.S. territories and possessions, (2) between U.S. territories and possessions and nearby foreign points, and (3) between Puerto Rico and the Virgin Islands, on the one hand, and points in the United States, Canada, Mexico, Central and South America, the Caribbean, and the Pacific and Atlantic, on the other. AIA urges us to delete the issue of interstate supplemental cargo transportation since such authority is covered by recently enacted section 418 of the Act. TIA suggests including intra-Alaska authority. In addition, five companies—Air Fleets International, Development International Corp., Harold S. Low and Lawrence Rosenthal (joint applicants), Maverick International, Inc., and David Travels, Inc.—seek permission to late file applications and one applicant—Arthurs Travel Center—wants its application dismissed. Finally, AIA and Air Fleets International ask us to resolve certain section 408/409 matters, which we discuss below.

1. LICENSING ISSUES

We shall modify the scope of the proceeding as requested by Central American and AIA. The issues in this case do not currently comprehend service between and among U.S. territories and possessions, and between those territories and possessions, on the one hand, and domestic and foreign points, on the other. There is no reason to exclude these. Inclusion will not expand the case substantially and the possibility of granting such authority will provide greater decisional flexibility for the Board and increased operational flexibility for successful applicants. We shall exclude from the case the issue of interstate supplemental cargo authority. That is already held by carriers who have received section 418 certificates and new applicants can obtain such certificates starting November 9, 1978, under procedures likely to be completed in advance of this case. We agree with AIA, therefore, that it is neither necessary nor desirable to include the issue in this proceeding. We see no reason to reconsider our earlier decision to exclude the intra-Alaska markets from this case, as TIA suggests. See order 78-7-106, p. 21. The carrier is, of

¹AIA's petition is accompanied by a motion for leave to late file, which we will grant.

course, free to request institution of a separate proceeding in accordance with the requirements of part 302 of our procedural regulations.

We will grant the motions for leave to late-file applications to the extent consistent with the scope of the case. Their inclusion will neither delay nor disrupt it.

We will not waive the requirements of part 312 as requested by Central American. While we recognize that the nature of charter demand makes a prediction about future operations at particular cities difficult, we are not prepared to conclude that the environmental implications of a decision in this case should not be fully considered. See *Palisades Citizens Association v. CAB*, 420 F.2d 188 (D.C. Cir. 1969). We would be unable to make a reasonable environmental evaluation in the absence of information required by section 312 of our regulations.

We will not at this stage provide for a transition as requested by Transocean. Global American correctly observes that the former large irregular operators are not entitled to a priority solely because of their earlier operations; we believe that the question of transition is one which should be resolved during the course of the hearing, rather than in advance.

2. CONTROL ISSUES

Issues arising under sections 408 and 409 of the Act will be examined in this case as in all cases involving the possible certification of new entrants. We shall, therefore, resolve those issues insofar as Air Fleets International is concerned. Alaska International's application raises some unique problems, however.

AIA is an Alaskan commercial airline which provides various air services, including scheduled, charter, and contract cargo services within Alaska, air services within the United States, between points outside the United States, and some transatlantic charter cargo services.² According to the applicants' submissions, the 408/409 issues involving AIA arise as follows: First, in 1972, Mr. Neil Bergt acquired a controlling interest in Interior Airways, Inc. (the predecessor of AIA) from National Equipment Rental Ltd.³ During that year the corporated name was changed to Alaska International, Inc. Second, in 1973, AIA ac-

quired all the stock of Weaver Brothers, Inc. (Weaver), a motor common carrier of freight.⁴ Third, in 1974, AIA reorganized into a holding company structure, in which AIA and Weaver became the wholly owned subsidiaries of AII. Since 1974, AII has acquired several nonaeronautical concerns,⁵ and also formed a subsidiary, Alaska International Sales Corp. (AISC), which is engaged in the export sale of aircraft and aircraft parts.

AIA originally filed its section 408/409 applications in connection with its application for certificate authority in the *Alaska International Air Certification Proceeding*, docket 29237. There applications were transferred to the *Transatlantic Cargo* case, docket 30789, and the *D.O.D. Contract-Eligible Certification* case, docket 30221, leaving the 408/409 applications as the sole issues in docket 29237. See order 76-12-97, December 15, 1976. Those issues have been deferred since May 1977. See order 77-5-143, May 26, 1977.

On March 23, 1977, AIA filed a motion to terminate docket 29237 and, on June 24, 1977, the carrier filed a supplemental motion requesting disposition of its section 408/409 requests through a disclaimer of jurisdiction or, alternatively, grant of an exemption or entry of an order of approval. AIA argues that the Board has received enough information to decide the control and interlocking questions without a hearing, that AIA and Weaver transact little business with each other, and that AIA's operations subject to Board's jurisdiction have little to do with Weaver's trucking operations. Seaboard World Airlines, Inc., Trans International, Inc., and Evergreen International Airlines filed answers contending that the issues raised are of sufficient complexity to warrant a hearing.

On August 22, 1978, AIA filed its petition for reconsideration in the *Former Large Irregular* case, renewing its request for nonhearing disposition of its section 408/409 applications in docket 29237. AIA alleges that its opponents have used the control issues to frustrate its entry and that this is likely to occur again in a large case like the *Former Large Irregular* proceeding. AIA indicates that it will soon file an application for a section 418

certificate to provide domestic all-cargo transportation, and that the section 408/409 applications should be disposed of in connection with that application. Trans International Airlines opposes AIA's request. It denies that it seeks to delay or frustrate consideration of AIA's application, restating its view that what it describes as "the various complex and unique § 408 and § 409 issues raised by AIA's corporate structure * * *" should be examined in a hearing. AIA offers an alternative plan in the event the Board agrees that the *Former Large Irregular* case is the wrong vehicle for considering AIA's intercorporate relationships; it recommends that the Board reestablish the AIA certification case, expand it to include all geographical authority now sought by AIA in the *Former Large Irregular* case as well as intra-Alaska charter authority, and consolidate additional applications.

We have decided to dispose of AIA's section 408/409 applications promptly in docket 29237. AIA indicates that it will soon file an application for an all-cargo certificate and the Board may be required to examine at least some section 408/409 issues in connection with that application. See EDR-359, setting out the conditions under which the Board proposes to exempt holders of all-cargo certificates from the requirements of sections 408(a) and 409. AIA is also an applicant in the *Transatlantic Cargo Service* case, docket 30789, and will presumably pursue its request for charter authority in the *Former Large Irregular* case as well. It is unclear which of these cases will be decided first (the section 418 proceeding seems to be the most likely candidate) but we have an obligation to decide the section 408/409 issues in connection with AIA's application for its first certificate. Clearly, the applicants and the opponents should not be required to litigate these issues in three or more cases. Given the length of time the control issues have already been before the Board, we think the best plan is to set all of them for prompt disposition. We will use docket 29237 as the vehicle.

We cannot at this time determine what procedures will be necessary to dispose of AIA's applications. The series of intercorporate transactions is intricate and occurred over a period of 4 years, being completed in 1975. The record which the applicants claim is now adequate to decide the issues is dispersed over several dockets and may contain inaccurate or outdated information. The potential anticompetitive elements which we must consider in connection with the section 408/409 requests may be somewhat different insofar as AIA seeks international as opposed to domestic authority. We, therefore, urge AIA to submit, within

²AIA holds no certificate of public convenience and necessity. For its current operations, it relies on various ad hoc exemptions from title IV provisions, and a general temporary exemption to conduct outsized cargo charter flights between the United States and points in the Middle East and Africa until 90 days after the Board's final decision in the *Transatlantic Cargo Service* case, docket 30789.

³See *Flying Tiger Corp. et al.*, order 72-7-26, July 10, 1972.

⁴Weaver is a motor common carrier transporting commodities within Alaska and between Alaska and the Pacific Northwest. No authorization for the acquisition of Weaver was requested or granted by the Board (see order 76-5-30).

⁵In 1974, AII acquired Valdez Alaska Terminals, Inc., which is engaged in real estate leasing, and its subsidiary, Valdez Stevedoring Co., Inc., which is engaged in leasing of dock facilities. During 1975, AII formed as subsidiaries, Aleasco, Inc. and Alaska International Construction, Inc., both of which are engaged in construction activities.

21 days, such updated information as is necessary, and to identify what information in docket 29237 remains accurate. In addition, the exact nature of AIA's operations and the authority for each type of operation should be set forth clearly. For convenience it would be useful to us if all such information is contained in a single document or set of documents. Parties to the case will then have 21 days to file rebuttal comments and documents. Opponents may at the same time request oral evidentiary hearings if there are material factual issues to be decided which can be resolved only through cross-examination. AIA will have 7 days to reply. We will then decide whether or not to hold an oral hearing. We expect parties to specify the exhibits or information which require cross-examination and state precisely the matters they find necessary to explore at an oral hearing. We plan to act expeditiously whether or not we find oral hearings necessary.

Accordingly, we order, that:

1. The primary issues in docket 32327 shall be:

(a) Whether the public convenience and necessity may require the grant of additional certificated supplemental authority for the transportation of persons, property, and military traffic in interstate, overseas, or foreign supplemental air transportation between (i) any point in any State of the United States, the District of Columbia, or any U.S. territory or possession, on the one hand, and any other point in any State of the United States, or any U.S. territory or possession, on the other hand, and (ii) any point in any State of the United States, the District of Columbia, or any U.S. territory or possession, and the following areas: Canada, Mexico, the Caribbean, Central and South America, the transpacific, and transatlantic;

(b) Whether the applicants for such authority are fit, willing, and able to perform the supplemental air transportation found by the Board to be required by the public convenience and necessity;⁶

2. The following authority will not be considered:

(a) Property between points in the United States and points in the transatlantic area;

(b) Air transportation between points in the United States, on the one hand, and points in the polar regions or in outer space, on the other hand;

(c) Air transportation between points within the State of Alaska;

(d) All-cargo air service as defined in section 102(11) of the Act.

3. The motions for leave to late-file are granted, and the following applica-

tions are consolidated to the extent consistent with the issues in the case.

Docket 33363:

Air Fleets International, Inc.
Development International Corp.
Harold S. Low and Lawrence Rosenthal
David Travels, Inc.

Docket 33362:

Maverick International, Inc.

4. AIA's motion in docket 32327 for leave to late-file is granted;

5. Docket 29237, renamed the *AIA Control Case*, is reopened for expeditious disposition in accordance with the procedures established in this order;

6. The motion of AIA in docket 29237 for leave to file a reply to the answers of Evergreen, Seaboard, and TIA be granted;

7. Except to the extent granted by this order, the motion of AIA, AII, and Neil G. Bergt in docket 29237 for final disposition without further proceedings is denied; and

8. The applications of Arthurs Travel Center in docket 32630, and DHL Airways in docket 31540, are dismissed.⁷

This order shall be published in the *FEDERAL REGISTER*.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,⁸
Secretary.

[FR, Doc. 78-28278 Filed 10-5-78; 8:45 am]

[6320-01]

[Docket No. 32752; Order 78-9-135]

PAN AMERICAN WORLD AIRWAYS, INC.

Order to Show Cause and Granting Temporary Suspension at Fairbanks, Alaska on Route 150

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

On May 26, 1978, Pan American World Airways filed an application under part 205 of the Board's regulations and section 401(j) of the Act for authority to suspend service to Fairbanks, Alaska, on Route 150 for an indefinite period. It asks that the authority be effective September 30, 1978.

In support of its request, the applicant states that the route has historically been financially marginal and the end of the oil pipeline boom has brought a return of loss operations; that it continued to operate at a loss in anticipation of the construction of

⁷As noted above, Arthurs Travel Center filed a motion requesting dismissal of its application. DHL's application requests transatlantic authority and should have been dismissed by order 78-7-106. See pp. 22-23 of that order.

⁸All members concurred.

the Alcan pipeline, but with its construction deferred, Pan American can no longer afford to hang on hoping a boom will materialize; that it should be allowed to end this strain on its resources and to improve the quality and efficiency of service on its remaining routes; that Alaska Airlines provides multiple daily Fairbanks-Seattle one-stop flights via Anchorage; that connecting service is available between Fairbanks and Portland; and that several carriers are currently seeking to provide nonstop service in the *West Coast-Alaska Investigation*.

No answers have been received.

We have decided (1) to issue an order to show cause which proposes to make Pan American's authority to serve the Fairbanks-New York/Seattle-Portland markets over Route 150 permissive, and (2) to authorize Pan American to suspend its Fairbanks-Seattle-Portland services over segment 1 of Route 150.

TENTATIVE FINDINGS AND CONCLUSIONS

We have tentatively concluded, on the basis of the tentative findings below, that the public convenience and necessity require the amendment of Pan American's certificate for Route 150 to make its Fairbanks-New York/Seattle/Portland authority over the route permissive.¹

Pan American will be able to discontinue service at will, but, by our making its authority permissive instead of suspending or deleting it under section 401(g), it will also be able to resume service should its assessment of the markets change, without the costly delay otherwise required to obtain our approval. Thus, should the Alcan pipeline be constructed or some other major traffic increase occur the carrier could help meet the immediate demand for additional service. As noted in several cases, we view the possible preemptive effect of such dormant authority as small, and counterbalanced by its used as a competitive spur.²

The Seattle-Fairbanks segment is a vestige of an earlier era, when Pan American served Fairbanks and points in southeastern Alaska with propeller aircraft from Seattle. The segment

¹We also tentatively find that Pan American is fit, willing, and able within the meaning of sec. 401 of the Act. Since the proposed suspension and certificate amendment will induce, at most, only a minor decrease in operations, our actions will not result in a major Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act of 1969 or a major regulatory action under the Energy Policy and Conservation Act of 1975. Pan American originally requested a waiver of the filing requirements of pt. 312. Later it filed an environmental evaluation. We will dismiss its waiver request.

²For example, order 78-3-78.

⁶This will include all issues arising under other sections of the Act including secs. 408 and 409, except insofar as AIA is concerned.

has historically been financially marginal, and for many years Pan American (as well as Alaska Airlines) suffered substantial losses providing Seattle-Fairbanks nonstop service.³ With the end of the oil pipeline boom, it is again faced with unacceptable operating losses. In 1977, Pan American estimates it experienced a seat load factor of 31.4 percent and suffered an operating loss of \$3,414,000 on its Fairbanks-Seattle/Portland services (segment 1 of Route 150).⁴ This estimate appears reasonable, and there is no prospect for improved results for Pan American in the near term.

Similarly, Pan American's operations over segment 2 of Route 150 have proved unprofitable. By the terms of its certificate the carrier has to serve a point west of Fairbanks on its Pacific Route 130 on all flights over segment 2. Until 1975, it provided service over a New York-Fairbanks-Tokyo routing; however, service over the Fairbanks-Tokyo portion of the flights was uneconomic. By order 75-8-144, August 28, 1975, the Board granted Pan American exemption authority to provide turnaround service between New York and Fairbanks as an alternative to suspension at Fairbanks on segment 2 and allowed it to suspend its Fairbanks-Tokyo services. Unfortunately, the results of the New York-Fairbanks turnaround operations were not encouraging. For the first year of operations, Pan American carried only 6,522 coupon O. & D. passengers, which produced an operating loss of \$628,000 or \$96 per passenger. As a result, the Board allowed Pan American to suspend service between Fairbanks and New York for a 2-year period, stating that direct service was not required by the public interest and noting the existence of ample connecting service available via Seattle (order 77-5-22, May 5, 1977). There is little reason to believe that Pan American's chances for economic operations over segment 2 will improve in the near term.

Pan American wishes to concentrate on large markets requiring larger aircraft and it should be allowed to do so. Under these circumstances, we believe its authority over the Fairbanks-Seattle/Portland and Fairbanks-New York portion of the route should be made permissive.

³See *Pacific Northwest-Alaskan Service Case*, 42 CAB 489, 509-11 (1965).

⁴Pan American's authority to serve Portland on segment 1 is temporary and expires February 7, 1979. The carrier is also suspended at Ketchikan and Juneau on segment 1 until Feb. 7, 1979. Service between the latter points and Seattle is in issue in the *Southeast Alaska Service Investigation*, docket 31570. Consequently, we are not proposing to give Pan American permissive authority at those points, but will await developments in that case.

TEMPORARY SUSPENSION

For the above reasons, we will also authorize Pan American to suspend its Fairbanks-Seattle/Portland services on segment 1. We recognize that Pan American's Fairbanks-Seattle operations provide the only nonstop services in the market, continuation of which is vital to the commerce of Alaska. It is imperative that there be little, if any, interruption in nonstop service. To meet these needs, we will grant nonstop exemption authority in the Seattle-Fairbanks market along with the suspension authority (order 78-9-149).⁵ Thus, discontinuation of Pan American's service will not result in substantial inconvenience to the public. Under these circumstances, we find that grant of the suspension is in the public interest.

PROCEDURES

Interested persons will be given until 30 days following the date of adoption of this order to show cause why the above tentative findings and conclusions should not be made final. We expect that objections will be supported by detailed economic or legal arguments. If an oral evidentiary hearing complete with the opportunity for cross-examination is requested, the objector should state, in detail, why such hearing is necessary and what 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: 1. We direct all interested persons to show cause why the Board should not issue an order making final these tentative findings and conclusions and amending Pan American's certificate for Route 150 to make its Fairbanks-Seattle/Portland (segment 1) and Fairbanks-New York (segment 2) authority over that route permissive;

2. Any interested person having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendment shall, no later than October 30, 1978, file with the Board and serve upon all persons listed in paragraph 9 a statement of objection together with

⁵Six carriers have applied for temporary certificate or exemption authority to provide Seattle-Fairbanks nonstop service pending the outcome of the *West Coast-Alaska Investigation*: Alaska Airlines (docket 32749), Western (docket 32787), Wien Air Alaska (docket 32799), Northwest (docket 32878), Pacific Alaska Airlines (docket 32897), and Aeroamerica (docket 33114). Issues in the above case include (1) whether the 13-year-old suspension of Alaska Airlines' Fairbanks-Seattle nonstop authority should be removed, and (2) whether a new carrier other than Alaska should be certificated in the Fairbanks-Seattle market.

a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections. Answers to objections shall be filed 10 days later;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised before further action is taken by the Board;

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 further action;

5. We suspend, under section 401(j), the authority of Pan American World Airways to serve the Fairbanks-Seattle/Portland markets on segment 1 of Route 150 until 90 days after final decision on the proposed certificate amendment;

6. The authority granted in paragraph 5 shall become effective on October 1, 1978;

7. We dismiss Pan American's request for a waiver of the filing requirements of part 312;

8. The authority granted in paragraph 5 may be amended or revoked at any time in the discretion of the Board without hearing; and

9. A copy of this order shall be served on all persons named in the service lists of dockets 30170, 30435, 32749, 32752, 32787, 32799, 32878, and 32897 and any persons who filed answers to those applications.

This order shall be published in the *FEDERAL REGISTER*.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28279 Filed 10-5-78; 8:45 am]

[6320-01]

[Docket No. 33341]

TIGERAIR, INC., ET AL.

Proposed Approval of Application

Application of TigerAir, Inc., the Flying Tiger Line, Inc., and Tiger International, Inc., for approval under section 408 of the Federal Aviation Act of 1958, as amended, of the acquisition of control of Aircraft Tank Services, Inc., and WEF Manufacturing, Inc., docket 33341.

I hereby give notice pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that I intend to issue the attached order under dele-

⁶All 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.

⁷All Members concurred.

gated authority. Interested persons have until October 13, 1978, to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., October 3, 1978.

BARBARA A. CLARK,
Deputy Director-Designate.

UNITED STATES OF AMERICA, CIVIL
AERONAUTICS BOARD, WASHINGTON, D.C.

ORDER OF APPROVAL

Issued under delegated authority.

Application of TigerAir, Inc., the Flying Tiger Line, and Tiger International, Inc., for approval of acquisition of control, Docket 33341.

TigerAir, the Flying Tiger Line (FTL), and Tiger International (TI) have requested that the Board approve, under section 408 of the Act and ordering paragraph 6 of order 70-6-119,¹ the acquisition of control resulting from the purchase by TigerAir of 100 percent of the equity of Aircraft Tank Services, Inc. (ATS), and WEF Manufacturing, Inc. They also filed a motion requesting expedited handling, noting that ATS and WEF can withdraw from the agreement if final Board approval is not obtained before October 31, 1978.

TigerAir is a wholly owned subsidiary of National Equipment Rental, which is a wholly owned subsidiary of Tiger Leasing Group, which is itself a wholly owned subsidiary of TI. TI also owns all the outstanding stock of FTL, a certificated all cargo carrier.

TigerAir is engaged in the sale and leasing of aircraft and it has three subsidiaries in aeronautical fields. One of them, TigerAir Service Center (TSC), is a fixed base operator engaged primarily in aircraft repair and maintenance.²

ATS and WEF are both owned by Merrill E. and Wilman June Fuller. Operating adjacent to the Hollywood-Burbank Airport, where TSC is located, ATS is engaged in the manufacture, sale, and installation of aircraft fuel expansion systems. WEF operates a sheet metal shop whose production is used almost exclusively by ATS. The applicants argue that because of this fact and because of common management and ownership, ATS and WEF should be viewed as a single entity.

TSC is currently engaged in the design and installation of fuel expansion systems but it specializes in systems for conversion of commercial aircraft into long-range corporate aircraft, and it does not have production facilities. The applicants assert that TSC will benefit from gaining ATS's production capabilities and its broader product line, and that ATS will benefit from TSC's Hollywood-Burbank Airport facilities, and its broader aviation industry sales base.³

The applicants assert that the acquisition will not threaten any other carriers for a number of reasons: ATS and TSC currently have almost no dealings with commercial carriers; commercial carriers generally deal

with aircraft manufacturers for this type of work and have the potential for doing it themselves;⁴ and that numerous independent firms provide similar services in the United States.

We have received no comments on this application or requests for a hearing.

We have concluded that TI is a person controlling an air carrier; that ATS and WEF are persons engaged in a phase of aeronautics;⁵ and that the purchase of ATS and WEF results in acquisitions of control that are subject to section 408(a)(6) and ordering paragraph 6 of order 70-6-119. However, we have also concluded that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation; does not result in creating a monopoly or otherwise lessen competition;⁶ and that the transaction will be consistent with the public interest.

The Board's focus in a conglomerate-type acquisition is on its potential effects in the air transportation industry,⁷ and we have decided that the acquisition will not have any adverse results in that industry.⁸ FTL is currently affiliated with a concern engaged in the design and installation of fuel expansion systems and the extension of these activities are unlikely to pose a competitive threat to certificated air carriers. ATS and TSC do not currently have significant dealings with certificated air carriers, and there are a variety of alternatives available to them for obtaining fuel expansion systems. We will, however, retain jurisdiction to amend or revoke the approval granted here as the public interest requires.

We therefore find, under authority delegated by the Board in its regulations, 14 CFR 385.6 and 385.13, that approval of the acquisition of control of ATS and WEF by TigerAir and through it by TI, under section 408(a)(6) of the Act and ordering paragraph 6 of order 70-6-119 is in the public interest and that the public interest does not require a hearing on this matter;⁹ that our action is not a major Federal action within the meaning of the National Environmental Policy Act of 1969;¹⁰ that our action is governed by prior Board precedent and policy,¹¹ that immediate action is required to enable the transaction to take place; that the filing of petitions therefore will not preclude this

¹The applicants state that Hughes Aircraft has its own installation facilities.

²Sheet metal fabrication is not, of course, per se an aeronautical activity, but in view of WEF's almost exclusive dealing with ATS and the historic unity of ownership and management, we will treat WEF as a person engaged in a phase of aeronautics.

³Our findings are limited to the field of air transportation.

⁴International Air Service Company Acquisition of Control of Aloha Airlines, Inc., order 78-6-208, June 29, 1978.

⁵In any event, our approval here goes only to the acquisition itself and not any subsequent actions of the affiliated companies.

⁶We have published in the FEDERAL REGISTER a notice of intent to dispose of this application without a hearing and have furnished a copy of the notice to the Attorney General not later than the day following the date of its publication, both in accordance with the requirements of section 408(b) of the Act.

⁷From examination of the application, it appears that approval will not cause any of the results set forth in § 312.9 of the Board's procedural regulations.

⁸See e.g., order 78-8-52, supra.

order from becoming effective immediately; and that all other requests in the docket should be dismissed.¹²

Accordingly, 1. We approve the acquisition of control of ATS and WEF by TigerAir and through it, by TI;

2. We grant the motion of the parties for expedited treatment;

3. We dismiss all other requests in this docket; and

4. We retain jurisdiction for the purpose of amending or revoking the approval granted here, with or without hearing, as the public interest requires.

Persons entitled to petition the Board for review of this order under the Board's regulations, 14 CFR 385.50 may file petitions within 10 days after the date of service of this order.

This order shall be effective immediately and the filing of such petitions shall not stay its effectiveness.

MICHAEL E. LEVINE,
Director, Bureau of Pricing
and Domestic Aviation.

Secretary.

[FR Doc. 78-28280 Filed 10-5-78; 8:45 am]

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by the tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1977, for which tabulations were completed between September 1, 1978, and September 30, 1978.

Dated: October 2, 1978.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

¹²The applicants had requested a disclaimer of jurisdiction over interlocking relationships which might arise from the acquisition of control. We find that to the extent that they do, they fall within the exemption and approval afforded by part 287 of the Board's economic regulations.

State/place or special area	County	Date of census	Population
Arkansas:			
Bentonville City.....	Benton.....	June 13.....	7,832
Hoxie City.....	Lawrence.....	Aug. 7.....	2,918
Norristown City.....	Pope.....	July 24.....	556
Illinois:			
Buffalo Grove Village.....	Cook and Lake.....	May 10.....	20,609
Round Lake Beach Village.....	Lake.....	June 27.....	12,148
Sauk Village.....	Cook.....	June 29.....	10,544
Puerto Rico:			
Toa Baja Municipio.....		Mar. 6.....	76,935

[FR Doc. 78-28153 Filed 10-5-78; 8:45 am]

[3510-24]**Economic Development Administration****INFANTA KNITTING MILLS, INC., KIRSTEIN LEATHER CO., AND LAWRENCE MAID FOOTWEAR, INC.****Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance**

Petitions have been accepted for filing from three firms: (1) Infanta Knitting Mills, Inc., 27 Jarrett Avenue, Rockledge, Pa. 19111, a producer of sweaters and other sportswear for children (accepted September 28, 1978); (2) Kirstein Leather Co., 72 Main Street, Saco, Maine 04072, a processor of leather (resubmitted petition accepted Sept. 29, 1978); and (3) Lawrence Maid Footwear, Inc., 50 Island Street, Lawrence, Mass. 01840, a producer of women's footwear (accepted Sept. 29, 1978). The petitions were accepted 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 10 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. 78-28249 Filed 10-5-78; 8:45 am]

[3510-24]**DEPARTMENT OF COMMERCE****Economic Development Administration****JONES & LAUGHLIN STEEL CORP.****Business Development Program; Application for Assistance**

Notice of application for assistance under the Economic Development Administration's (EDA) special program to guarantee loans to firms in the basic steel industry.

Firm	Amount of loan	Percent guaranteed	Products
Jones & Laughlin Steel Corp..	\$111,100,000	90.....	Hot and cold rolled sheet; tin mill products; flat rolled coated products; hot rolled and cold finished bars; tubular products; light plates and structural shapes; rod and wire products; hot rolled and cold rolled stainless steel sheets; cold rolled strips in carbon, alloy, and stainless grades; electricweld tubing.

Dated: September 27, 1978.

ROBERT T. HALL,
*Assistant Secretary
for Economic Development.*

[FR Doc. 78-27801 Filed 10-5-78; 8:45 am]

[1505-01]**Economic Development Administration****ROUNDS I AND II OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT (LPW) PROGRAM****Closing Date for Requests for Project Modification****Correction**

In FR Doc. 78-27291, appearing at page 44560 in the issue of Thursday, September 28, 1978, on page 44560, the second sentence should read:

"All requests for changes in a project's scope or modifications which involve a project's cost must be received and accepted in the appropriate EDA Regional Office by C.O.B. December 29, 1978."

[3510-13]**National Bureau of Standards****SIMPLIFIED PRACTICE RECOMMENDATION****Action on Withdrawal**

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the withdrawal of simplified practice recommendation R163-48, "Coarse Aggregates (Crushed Stone, Gravel, and Slag)."

It has been determined that this standard is technically inadequate, no longer used to any extent, and not in the public interest to maintain. In view of the existence of the American Society for Testing and Materials (ASTM) D448, "Standard Sizes of Coarse Aggregate for Highway Construction," and various other industry standards, revision of this simplified practice recommendation would serve no useful purpose.

This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of July 13, 1978 (43 FR 30090) to withdraw this standard. The effective date for the withdrawal of this standard will be 60 days after the publication of this notice. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: October 2, 1978.

THOMAS A. DILLON,
Acting Director.

[FR Doc. 78-28243 Filed 10-5-78; 8:45 am]

[3510-49]

**National Fire Prevention and Control
Administration**

**BOARD OF VISITORS FOR THE NATIONAL
ACADEMY FOR FIRE PREVENTION AND
CONTROL**

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Academy for Fire Prevention and Control (Board).

Date of meeting: October 26, 1978.

Place: Board Room, Olympic Hotel, Fourth and Seneca, Seattle, Wash.

Time: 8:30 a.m. to 5 p.m.

Proposed agenda: Semiannual update on activities of National Academy for Fire Prevention and Control. Preparation for Annual Report submission. Review of staffing, course offerings and delivery schedule for fiscal year 1979.

The meeting will be open to the public with approximately 20 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact Ms. Jane Sornberger, National Fire Academy, National Fire Prevention and Control Administration, P.O. Box 19518, Washington, D.C. 20036.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in room 214, National Fire Prevention and Control Administration, 2400 M Street NW., Washington, D.C.

Copies of the minutes will be available upon request 30 days after the meeting.

Dated: October 2, 1978.

JOSEPH A. MORELAND,
*Acting Administrator, National
Fire Prevention and Control
Administration.*

[FR Doc. 78-28252 Filed 10-5-78; 8:45 am]

[6820-33]

**COMMITTEE FOR PURCHASE FROM
THE BLIND AND OTHER SEVERELY
HANDICAPPED**

PROCUREMENT LIST 1978

Correction of Addition

The document adding five wheel chock assemblies to Procurement List

1978 published in the FEDERAL REGISTER on September 29, 1978 (43 FR 44877) is amended to add the following:

The above for all requirements for facilities located west of the Mississippi River and any requirements for facilities located east of the Mississippi River which are not furnished by Federal Prison Industries.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-28273 Filed 10-5-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Addition

AGENCY: Committee for Purchase From the Blind and Other Severely 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 or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 8, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

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

If the Committee approves the proposed addition, all entities of the Federal Government will be required 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 7331

Typing and Proofreading, General Services Administration, PBS, CMD, Region 5, Chicago, Ill.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-28274 Filed 10-5-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Addition

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

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1978 a service to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 6, 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 June 23, 1978, the Committee for Purchase From the Blind and Other Severely Handicapped published a notice (43 FR 27229) of proposed addition to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1978:

SIC 0782

Grounds Maintenance, Edwards Air Force Base, Calif., for the following buildings: 1200, 1220, 1400, 2650, 2660, 2800, 3940, P-1.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-28275 Filed 10-5-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Southwestern Power Administration

SALARY ADJUSTMENT FOR ADMINISTRATOR

Pursuant to section 5364 of Title 5 of the United States Code, the salary of the Administrator, Southwestern Power Administration, is adjusted to \$44,756 per annum, effective October 8, 1978.

Issued in Washington, D.C., on October 4, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-28353 Filed 10-5-78; 8:45 am]

[3128-02]

Federal Energy Regulatory Commission

[Docket No. RI78-43]

CORDILLERA CORP.

Order Granting Special Relief

SEPTEMBER 25, 1978.

On March 28, 1978, Cordillera Corp. (Cordillera) filed its initial petition for special relief pursuant to § 2.76 of the Commission's general policy and interpretations (18 CFR 2.76), requesting authorization to charge a total rate of \$2.12 per Mcf for the sale of 100 percent of its working interest in the gas produced from the Sugar Creek No. 1 well, Sugar Creek field, Carbon County, Wyo., and sold to Western Transmission Corp. (Western). On June 2, 1978, Cordillera amended its initial petition, requesting a lower total rate of \$1.91 per Mcf for the sale of the subject gas. Currently, the maximum authorized rate which Cordillera may charge for the subject gas is 52.7 cents per Mcf.

Notices of the initial petition for special relief and the amendment thereto in docket No. RI78-43 were issued on April 19, 1978, and August 9, 1978, respectively. These notices were published in the FEDERAL REGISTER respectively on April 27, 1978, at 43 FR 18005 and August 16, 1978, at 43 FR 36303. Colorado Interstate Gas Co. filed a timely petition to intervene in support of Cordillera's initial petition.

As justification for the requested special relief rate, Cordillera states that the gas which would be produced from the Sugar Creek No. 1 well contains a significant amount of hydrogen sulfide (1.505 mole percent). Further, Cordillera states that due to the high hydrogen sulfide content of the gas, it

has been unable to make delivery of gas to Western in accordance with the terms of their gas sale contract. Additionally, Cordillera states that it proposes to remedy the situation by installing an amine unit to remove hydrogen sulfide from the gas and by installing, in order to meet environmental standards, a sulfur recovery unit, all at a total cost of \$547,000. Also, Cordillera proposes the installation of a water disposal system to dispose of saltwater produced as a byproduct of extracting the gas from the subject well; the cost of installing the water disposal unit would be \$54,000. Moreover, Cordillera asserts that if special relief is granted, permitting it to install the proposed facilities, then it will be able to recover an estimated gross remaining 1,422,405 Mcf of gas over the next 7 years. If special relief is denied, Cordillera states that it will seek abandonment of the subject well.

In connection with this proceeding, staff conducted a field investigation. Based on the results of that investigation, staff determined that Cordillera's remaining net book investment of \$191,419, proposed new investment of \$601,000, and estimated production expenses of \$1,214,549 over the estimated 7 years of production were reasonable.

After utilizing the above cost figures in a traditional cost study² wherein the modified Btu method was used to allocate cost between gas and liquids, staff concludes that, in order for Cordillera to recover the cost associated with this project—including a 15-percent rate of return—over a 7-year life, the special relief rate should be \$1.91 per Mcf.

Upon consideration of the data submitted by petitioner and staff's analysis thereof, we conclude that the proposed rate is cost justified and that the granting of the proposed rate is in the public interest.

The Commission orders: (A) The petition for special relief, as amended, is hereby granted.

(B) Petitioner is authorized to collect a total rate of \$1.91 per Mcf at 14.73 psia for the sale of natural gas from its Sugar Creek No. 1 well in Sugar Creek field, Carbon County, Wyo., to Western effective on the date of completion of the proposed work or the date of the issuance of this order, whichever is later, subject to Cordillera filing a statement signed by Western attesting to the fact that the proposed work has been completed to Western's satisfaction within 30 days of the effective date specified above.

(C) This order is further conditioned upon the filing by Cordillera, within 30 days of the issuance of this order, of an executed amendment to its contract with Western providing for pay-

ment of the rate granted above and a notice of independent producer rate change reflecting the above authorized rate.

(D) Colorado Interstate Gas Co. is permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however, That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene: And provided, further That the admission of such intervenor shall not be construed as recognition by the Commission that the intervenor might be aggrieved because of any order or orders of the Commission entered in this proceeding.*

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—Cordillera Corp., Docket No. RI78-43

[Unit cost of gas]

Line No. and item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas—Mcf at 14.73 psia ¹	1,244,604
3. Liquids—Bbls ²	12,379
4. Cost of production:	
5. Return on rate base at 15 pct ³	\$435,690
6. D.D. & A. ⁴	660,387
7. Production expense ⁵	1,214,549
8. Subtotal	2,310,625
9. Allocated to gas ⁶	2,128,549
10. Regulatory expense ⁷	1,245
11. Total cost of production	2,129,794
12. Unit cost of gas (cents per Mcf):	
13. Cost of production ⁸	1.71
14. Production and ad valorem taxes ⁹	.20
15. Total unit cost	1.91

¹1,422,405 Mcf times 0.875 net working interest.

²14,148 bbls times 0.875 net working interest.

³Line 14 of sheet 3 times 0.15 times 7-year production life.

⁴From line 6 of sheet 2.

⁵Based on estimated 1977 production expense of \$145,377 escalated 5 pct annually for the first 5 years.

⁶Line 8 times line 12 of sheet 2.

⁷Line 2 times 0.1 cents per Mcf per opinion No. 749.

⁸Line 11 divided by line 2.

⁹(Line 12 ÷ 8948) — line 12: Production tax at 4.03 pct; ad valorem tax at 6.49 pct.

[Investment and allocation of costs]

Line No. and item (a)	Amount (b)
1. Investment:	
2. Remaining net book value, Dec. 31, 1977	\$191,419
3. Investment ¹	601,000
4. Total investment	792,419

¹Includes \$547,000 for amine unit with hydrogen sulfide recovery unit and \$54,000 for water disposal system.

¹Cordillera was issued a small producer certificate in docket No. CS77-87 on May 11, 1977, pertaining to the sale of the subject gas.

²See appendix A, attached hereto.

Line No. and item (a)	Amount (b)
5. Less salvage value ³	132,032
6. Depreciable investment.....	660,387
7. Depreciation per unit of production ²	0.5306
8. Allocation of costs: ⁴	
9. Gas—MMBtu ⁵	1,182,374
10. Liquids—MMBtu ⁶	101,161
11. Total MMBtu.....	1,283,535
12. Percentage allocated to gas ⁷	92.12

³Salvage value as estimated by petitioner.²Line 6 divided by 1,244,604.⁴Modified Btu method per opinion No. 749.⁵1,244,604 Mcf times 0.950 MMBtu/Mcf.⁶12,379 bbls times 5.448 MMBtu/bbl times 1.5 modifier.⁷Line 9 divided by line 11.

Cordillera Corp., Docket No. RI78-43
[Average investment and annual rate base]

Line No. and year (a)	Annual N.W.I. production (Mcf) (b)	Beginning of year investment (c)	Deprecia- tion ¹ (d)	End of year investment (e)	Average investment ² (f)
1. Average investment:					
2. 1979	293,186	\$792,419	\$155,564	\$636,855	\$714,637
3. 1980	241,128	636,855	127,943	508,912	572,884
4. 1981	195,458	508,912	103,710	405,202	457,057
5. 1982	166,714	405,202	88,458	316,744	360,973
6. 1983	140,525	316,744	74,563	242,181	279,463
7. 1984	115,933	242,181	61,514	180,667	211,424
8. 1985	91,661	180,667	48,635	132,032	156,350
9. Total	1,244,604		\$660,387		\$2,752,788
10. Average annual investment ³					393,255
11. Average annual rate base:					
12. Average annual investment.....					393,255
13. Average annual working capital allowance ⁴					21,688
14. Total annual rate base.....					414,943

¹Column (b) times line 7 of sheet 2.²Column (c) plus column (e) divided by 2.³Column (f) of line 9 divided by 7 year productive life.⁴0.125 times line 7 of sheet 1 divided by 7 year productive life.

[FR Doc. 78-28187 Filed 10-5-78; 8:45 am]

[3128-01]**Office of Hearings and Appeals****NOTICE OF CASES FILED WITH THE OFFICE OF
HEARINGS AND APPEALS****Week of September 1 through September 8,
1978**

Notice is hereby given that during the week of September 1, 1978, through September 8, 1978, the appeals and applications for exception or

other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service

of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461.

MELVIN GOLDSTEIN,
Director, Office of
Hearings and Appeals.

SEPTEMBER 27, 1978.

APPENDIX.—List of Cases Received by the Office of Hearings and Appeals

[Week of Sept. 1 through Sept. 8, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 1, 1978	El Paso Natural Gas Co., El Paso, Tex.....	DEE-1810.....	Price exception (sec. 212.165). If granted: El Paso Natural Gas Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Midkiff plant.
Do.....	Special Counsel, Washington, D.C.....	DEX-0105	Supplemental order. If granted: An escrow account would be established for refunds made by Gulf Oil Corp. pursuant to a consent order entered into by Gulf and the Office of Special Counsel.
Sept. 5, 1978	Bultman, Inc., Jefferson City, Mo.....	DEH-0108	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened with respect to a statement of objections submitted by Bultman, Inc., in response to a proposed decision and order issued to the firm (case No. DEO-0106).
Do.....	Cabot Corp., Houston, Tex	DXE-1816 and DXE- 1817.	Extension of relief granted in <i>Cabot Corporation</i> , case Nos. DXE-0535 and DXE-0536 (decided Apr. 25, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect non-product cost increases incurred in producing natural gas liquids and natural gas liquid products at its Beaver and Estes plants.
Do.....	Gene L. Bolin, Philmath, Oreg	DRD-0026 and DRH- 0026.	Motion for discovery request for evidentiary hearing. If granted: An evidentiary hearing would be convened in connection with a statement of objections submitted by Gene L. Bolin in response to a proposed remedial order issued to the firm. Discovery would be granted to Mr. Bolin with respect to his objection to a proposed remedial order issued DOE region X.
Do.....	Hill, Christopher, & Phillips, Washington, D.C.	DFA-0208.....	Appeal of freedom of information request denial. If granted: Hill, Christopher, & Phillips' freedom of information request of Aug. 1, 1978, would be deemed denied and the firm would be granted access to documents relating to strategic petroleum reserve program.
Do.....	Mapco, Inc., Tulsa, Okla	DEE-1819.....	Price exception (sec. 212.165). If granted: Mapco, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Southwest Davis plant.
Do.....	Quincy Oil Co., Boston, Mass.....	DRH-0028	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened in connection with Quincy Oil Co.'s objections to a proposed decision and order issued with respect to an application for exception which the firm filed.

APPENDIX.—List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Sept. 1 through Sept. 8, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Sun Company, Inc., Dallas, Tex	DXE-1818	Extension of relief granted in <i>Sun Company, Inc.</i> , case No. DXE-0853 (decided Apr. 28, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Red Fish Bay plant.
Do.....	Taunton Municipal Lighting Plant, Taunton, Mass.	DRH-0029	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened in connection with Taunton's objections to a proposed decision and order issued with respect to an application for exception submitted by Quincy Oil Co.
Sept. 7, 1978	Acomi Corp., Peabody, Mass	DEE-1821	Exception to change supplier. If granted: Acomi Corp. would be assigned a new supplier of petroleum to replace its base period suppliers, Frontier Petroleum and North East Petroleum.
Do.....	Chevron, U.S.A., Inc., San Francisco, Calif	DEE-1820	Application for exception to pricing and entitlements classifications. If granted: Chevron U.S.A., Inc., would receive exceptions to pt. 212, subpt. D and pt. 211, subpt. C with respect to the crude oil produced from the State lease PRC 1824 South Flank Pool Property.
Do.....	Cities Service Co., Tulsa, Okla	DEE-1822	Price exception (sec. 212.83). If granted: Cities Service Co. would be granted an exception from the provisions of 10 CFR 212.83 with respect to the firm's propane prices.
Do.....	Hedrick & Lane, Washington, D.C.....	DFA-0209	Appeal of an information request denial. If granted: The DOE July 19, 1978, information request denial would be rescinded and Hedrick & Lane would be granted access to DOE data concerning the document "Joint Committee, Policy and Program: A Chronology of Leading Events, Jan. 1, 1953, AEC" and other documents included therewith.
Do.....	Special Counsel for Compliance, Washington, D.C.	DSG-0029	Petition for special redress. If granted: The Office of Hearings and Appeals would promulgate procedures for handling claims for refunds filed by purchasers of Conoco motor gasoline and No. 2 heating oil from Foremost Petroleum Co. and M & A Petroleum Co. in connection with proposed consent orders entered into on Aug. 11, 1978.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Sept. 7, 1978	Milltown Skelgas, Inc., Minneapolis, Minn.....	DEE-0958
Do.....	South Hampton Co., Washington, D.C.....	FEE-4778
Do.....	Union Oil Co. of California, Los Angeles.....	DXE-0413

Proposed Remedial Orders—Notices of Objection Received

Sept. 5, 1978	Mobil Oil Corp., Washington, D.C.....	DRO-0105
Do.....	Charles F. Haas, Corpus Christi, Tex	DRO-0108
Do.....	W. B. Osborn, Seminole, Okla	DRO-0107

[FR Doc. 78-28244 Filed 10-5-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS
COMMISSION[CC Docket No. 78-241; Transmittal Nos.
91-92; FCC 78-635]

MCI TELECOMMUNICATIONS CORP.

Memorandum Opinion and Order Instituting
Investigation

Adopted: September 14, 1978.

Released: October 2, 1978.

By the Commission: Commissioner
Washburn dissenting; Commissioner

Fogarty dissenting and issuing a statement; Commissioner White concurring in the result.

In the matter of MCI Telecommunications Corp., revisions to tariff F.C.C. No. 1, transmittal Nos. 86 and 88, CC Docket No. 78-241; MCI Telecommunications Corp., revisions to tariff F.C.C. No. 1, metered use service, transmittal No. 91; revisions to tariff F.C.C. No. 1, shared private line service, transmittal No. 92.

1. On June 2, 1978, MCI Telecommunications Corp. (MCI) filed its transmittal No. 91 to modify the rate structure for its metered use service and to add another option to that

service. That filing is to become effective on October 1, 1978. On June 13, 1978, MCI filed its transmittal No. 92, which contains revisions to the shared private line service (SPLS) rate structure, and adds a new option to the service. That filing is scheduled to become effective September 15, 1978.

2. American Telephone & Telegraph Co. (A.T. & T.) filed a petition for suspension and investigation of MCI's transmittal No. 91 on June 27, 1978, to which MCI replied. On July 7, 1978, A.T. & T. filed a petition for suspension and investigation of MCI's transmittal No. 92. MCI replied to that petition also. Since the revisions to the

metered use service and SPLS offerings are interrelated and the issues raised against both tariff filings are essentially the same, we will consider them together.

I. DESCRIPTION OF THE TARIFF REVISIONS

A. TRANSMITTAL NO. 91 (METERED USE SERVICE)

3. Metered use service¹ consists of several arrangements for originating and terminating calls. Common to these options are an MCI premises in the originating city, switched intercity circuits shared by all subscribers to the service between the city pairs and an MCI premises in the terminating city. As we understand MCI's tariff, the individual metered use service options can originate via: (a) A dedicated access line provided by MCI from the customer premises to the MCI premises, (b) calls from the customer's local exchange service into shared access facilities obtained by MCI at its premises, or (c) a customer-provided means of access. Likewise, the various options can terminate via: (a) A dedicated access line provided by MCI from the MCI premises to the customer premises, (b) MCI obtained shared access facility and exchange service, or (c) a customer-provided exit facility. Our interpretation of the MCI tariff provisions leads us to believe that any one of the access arrangements can be coupled with any of the terminating configurations to form a metered use service option. However, we note that MCI's cost support material filed with transmittal Nos. 91 and 92 apparently contemplates customers will use only the following three options. The first, known as Execunet, allows the customer, through the telephone company's local exchange service, to access the MCI premises in the originating city. This requires MCI subscription to local exchange service also. In the terminating city, calls are terminated through local exchange service subscribed to by MCI and shared among customers, thereby allowing the caller to complete calls to any telephone company subscriber of local exchange service in the terminating city. The second, called Service 12, utilizes a dedicated access line from a customer premises to the MCI premises in the originating city. This option terminates in the distant city through local exchange facilities obtained by MCI and shared with other customers. The third option added by this filing includes a dedicated access line to originate and terminate the service (hereinafter referred to as "Option III").

4. MCI proposes metered use service rate structure revisions which primarily

focus on the intercity circuit rate element.² A flat distance insensitive rate of \$0.0265 per minute, subject to a \$75 monthly minimum per subscriber charge, would replace the distance sensitive rate. This change would result, for example, in an intercity rate of \$1.59 for a 6-minute metered use service call between any two cities served. The current rate for the intercity portion of a 6-minute call between Washington, D.C., and New York City is \$1.46 and between New York City and Phoenix is \$2.13. The same \$75 minimum is currently applicable. Based on this comparison, it appears the customer making a call between two city pairs close in distance will experience a rate increase because of the distance insensitive intercity rate element. While the \$0.265 rate would be applicable to all Execunet calls, alternative rates for the intercity portion of the service would be available for Service 12 and option III. The alternative for Service 12 requires a \$910 monthly minimum charge for intercity facilities for each dedicated access facility used to access the service. This enables a customer to obtain a 55 percent reduction of rates for intercity usage to \$0.119 per minute for that customer's calls between metered use service cities. It should be noted that a customer would have to make 7,647 minutes of calls per month at \$0.119 per minute to reach the \$910 charge. However, a customer agreeing in advance to take service under the \$910 minimum would still pay less than the \$0.265 per minute rate if that customer makes over 3,434 minutes of calls per month. The alternative offered in conjunction with option III involves a \$6.50 monthly minimum charge for each set of dedicated facilities used to access and exit the service. Such customers also pay a \$0.119 per minute rate for use of intercity facilities. This alternative was not available previous to this filing. Similar to the situation with Service 12, an option III customer would have to make 5,462 minutes of calls per month at \$0.119 per minute to reach the \$650 charge, but would still pay less than the \$0.265 per minute rate if that customer makes over 2,453 minutes of calls per month.

5. MCI also proposes to revise the metered use service rate structure to change the access charge which relates to a customer's entry to an exit from the shared intercity circuits via local exchange facilities leased by MCI. These facilities are utilized at both the originating and terminating end of Execunet and at the terminating end of Service 12. The revised charge is to be based on the customer's usage and is prorated as a per-minute charge. The rate is to be based on the local telephone company's local

exchange service charges. MCI would eliminate the current maximum on prorated access charges. MCI has provided basic discrete billing information without charge but imposed a \$5 monthly charge for the first additional 25 individuals for which the information was provided and a \$1 monthly charge for every individual thereafter. Under the new revisions, MCI would charge \$10 monthly for the basic discrete billing information and \$8 per month for each additional individual or group of individuals for which the information is provided.

B. TRANSMITTAL NO. 92 (SPLS)

6. SPLS³ consists of a dedicated customer access line from a customer premises to MCI premises, switched intercity circuits shared by all SPLS subscribers between the city pairs, and MCI premises in the terminating city, and one of several alternative distant location connections. The first option utilizes a dedicated access line to terminate the service in the distant city (hereinafter referred to as "Option I"). The second option terminates the service in the distant city by using customer-obtained lines or service (hereinafter referred to as "Option II"). MCI proposes to add a third option to SPLS in this filing which would provide for termination of SPLS calls through local exchange facilities obtained by MCI and shared with other customers (hereinafter referred to as "Option III").

7. The SPLS rate structure would be revised in several respects.⁴ The rates for the intercity circuits would be based on a subscriber's total cumulative monthly usage of the service in hours from all individual originating locations. This hourly rate would consist of the sum of a customer's usage over all the access facilities used by that customer in each originating location. The distance insensitive rate would be \$13.98 per hour (0.233 per minute) for the first 60 hours of use per month, \$10.98 per hour (0.183 per minute) for 61 to 240 hours of use per month, and \$3.48 per hour (0.058 per minute) for each hour over 240. All customers, regardless of total number of hours, used in a month would pay the \$13.98 rate for the first 60 hours each month and the \$10.98 rate for 61 to 240 hours. This would replace the present intercity circuit charge, which varies for each city pair, and would eliminate the monthly minimum charge for designated city pairs and cumulative total monthly minimums now found in the SPLS rate structure. Thus, for example, the new rate for the intercity portion of a 6-minute SPLS call between any two cities

¹ See appendix I, attached, for an illustration of the specific metered use service options described in this paragraph.

² See appendix II, attached.

³ See appendix I, attached, for an illustration of the SPLS options.

⁴ See appendix II, attached.

served would be \$1.40 where the customer's total monthly usage is 60 hours or less, or \$1.10 for usage between 61-240 hours and \$0.35 for usage over 240 hours. The current rate for the intercity portion of the same call between Washington, D.C., and New York City is \$0.75 and between New York City and Phoenix it is \$0.93, both of which are subject to a minimum monthly usage charge. Based on this comparison, all customers would experience a rate increase for their first 240 hours of calls each month, with the greater increases being for the first 60 hours of calls and for those calls between city pairs closer in distance. Of course, customers making over 240 hours of calls per month would have a rate decrease for those additional calls. The fact that the minimum usage charge for each city pair and the cumulative total minimums would be replaced with an intercity rate based on total usage among all city pairs could mitigate the apparent differences between the old and new rates in the above examples, depending upon a customer's usage configuration among given city pairs.

8. MCI would further revise the SPLS rate structure to reduce the monthly charge for terminating customer dedicated access facilities in an MCI switch located in the originating city from \$50 to \$10. MCI calls this a dedicated access arrangement charge. The nonrecurring installation charge for each dedicated access arrangement and each distant location dedicated access line to a customer designated premises would be increased from \$50 to \$60. Finally, MCI proposes to expand the number of cities in which SPLS is offered so that SPLS and metered use service would be offered among the same designated city pairs.

II. CONTENTIONS OF THE PARTIES

A. A.T. & T.

9. *General public interest questions.* In its petition against the SPLS revisions, A.T. & T. contends that the new SPLS option constitutes a public switched message service and, as such, raises the same public interest questions as the expansion of Execunet (MCI transmittals Nos. 86 and 88). A.T. & T. also argues that when the Commission rejected the same SPLS option as being outside the scope of MCI's service authorizations in *MCI Telecommunications corporations (SPLS II)*, 63 FCC 2d 237 (1977), it did not reach the public interest issues raised by that offering, and therefore they should be considered now. A.T. & T. relies on *MCI Telecommunications Corporation v. FCC (Execunet I)*, 561 F. 2d 365 (D.C. Cir. 1977), cert. denied, 54 L. Ed. 2d 790 (1978) and *MCI Telecommunications corporation v. FCC*

(*Execunet II*), No. 76-2071 (D.C. Cir. April 14, 1978).

10. *Cost support material.* A.T. & T. contends that the cost support material submitted with the metered use service and the SPLS tariff filings is deficient and in violation of the requirements of § 61.38 of the Commission's rules, 47 CFR 61.38. Specifically, A.T. & T. argues that MCI has failed to supply cost justification for either the metered use service or the SPLS distance insensitive rate structures. Although overall costs for metered use service are provided, A.T. & T. contends that costs are not supplied for each of the service options, such as Execunet, Service 12 and the newly added option. A.T. & T. alleges that total costs for all of MCI's services and for each service individually are not included in the cost support material for either the metered use service or the SPLS revisions. Furthermore, A.T. & T. claims that the reduction in the charge for the dedicated access line, the increase in installation charges and the elimination of the minimum charges for SPLS are not cost justified. A.T. & T. argues that the allocation of indirect costs to both metered use service and SPLS is not adequately cost supported. It states that these indirect costs represents approximately 50 percent of the total costs reported for each of the two services. A.T. & T. contends that MCI bases its metered use service allocation on the number of metered use circuits used in relation to MCI's total installed circuits, but that MCI has not demonstrated that the allocated costs are related to the number of circuits. In addition, A.T. & T. argues that MCI has not provided justification for total costs to be allocated to SPLS for the 3-year projections or for the percentage allocations assumed. Also, A.T. & T. questions the SPLS cost assumptions when compared to past experience. In particular, A.T. & T. claims that MCI shows that its direct and indirect costs increased by 128 percent from April 1977 to March 1978, but that MCI's projections show direct costs will increase 1,848 percent each year over the next 3-years and indirect costs increasing only 298 percent by comparison.

11. A.T. & T. also argues that the traffic and revenue material submitted with both MCI filings is deficient and violative of § 61.38(a)(ii) of the rules. A.T. & T. maintains that the market forecasts for neither service are substantiated, thereby making it impossible to assess their reasonableness or their derivation. A.T. & T. further contends that both MCI filings are deficient in providing estimates of changes in traffic and revenues resulting from the proposed revisions.

12. A.T. & T. questions the basis for the change in MCI's position in trans-

mittal No. 91 that no cross-elasticity existed between metered use service and SPLS to the estimate made by MCI in transmittal No. 92 that 10 percent to 25 percent of the traffic and revenues could be diverted from metered use service to SPLS.

13. *Like services.* A.T. & T. contends that the new metered use service Option III and the SPLS dedicated access option are like services at different rates. A.T. & T. claims that both services provide the customer with the same service configuration, including dedicated access to MCI facilities, shared intercity lines, and termination over customer provided local exchange facilities or a dedicated facility between the local MCI office and the customer's premises. A.T. & T. raises the question of whether MCI uses the same intercity switching and facilities for metered use service and SPLS. A.T. & T. also contends that the new SPLS Option III and Service 12 option are like services offered at different rates. In this regard, A.T. & T. argues that both services provide dedicated access to MCI facilities, shared intercity lines and termination over exchange service provided to MCI by the local telephone companies.

B. MCI

14. *Public interest questions.* MCI argues that the public interest issues raised by A.T. & T. are properly the subject of the *MTS/WATS Market Structure Inquiry*, CC Docket No. 78-72, FCC 78-144 (released Mar. 3, 1978), and not of individual tariff revisions.

15. *Cost support material.* MCI replies to A.T. & T.'s contentions by stating that it has adequately justified the changes to its metered use service and SPLS tariffs. In regard to the distance insensitive rate structures, MCI argues that they more appropriately distribute the costs. This is so, MCI contends, because each call for these services must pass through an MCI switch prior to its completion, to route the call and enable call records to be made. Since the MCI switches are located in only 4 of the 24 cities served, MCI maintains that calls emanating from cities where switches are not present must pass over intercity lines to reach the appropriate switch and to reach the destination city. For example, MCI maintains that a call from Los Angeles to Phoenix would have to pass through the MCI switch in Dallas. Thus, MCI claims that the majority of the calls traverse distances which significantly differ from the actual mileage between the originating and terminating cities. MCI acknowledges that the disparity between airline miles and actual route miles does not occur for all city pairs served by metered use service and SPLS, but claims that as these services expand to

additional cities, the condition of disparity will increase in the short run. Since MCI argues that a majority of the traffic does not bear this direct relation to airline miles between originating and termination locations, it takes the position that the portion of costs related to the intercity network should not be allocated in direct proportion to distance. MCI also notes that most of the other costs related to metered use service and SPLS are not related to distance. MCI claims that other carriers have distance insensitive rate structures.

16. MCI contends that § 61.38 of the rules does not require a carrier to provide costs for each option within a particular service, or to provide the costs of service for services not affected by the filing or for the carrier as a whole. Thus, MCI admits that cost data for each individual option is not supplied in its metered use service or SPLS filings. MCI responds to A.T. & T.'s contentions regarding allocated or indirect costs by maintaining that such costs cannot be directly attributed to a particular service but by definition are allocated on a percentage basis from total costs. MCI argues that the indirect costs for metered use service were allocated on the basis of the number of circuits used for that service compared to the total number of MCI's installed circuits. MCI expands its contentions in regard to SPLS and explains that it employs several different allocation methods to assign the indirect costs associated with SPLS. These methods are based on such factors as direct costs, backbone costs, active circuits, number of customers and revenue contribution, MCI explains. In addition, MCI argues that A.T. & T.'s comparison of direct and indirect cost increases for SPLS have no significance in determining the lawfulness of rates. MCI contends that most indirect costs do not increase in direct proportion to volume increases in a given service and, if they did, they would not be considered indirect costs.

17. MCI further contends that it has provided the necessary traffic and revenue data to comply with the requirements of § 61.38. MCI claims that it has no incentive to exaggerate its metered use service market forecasts to justify low rates. It also maintains that since the revisions to the metered use service rates are not intended to change overall rate levels, no difference in impact on traffic and revenues for other services is expected. MCI argues that an estimate (in terms of percentage diversion) of the effects of the changes in SPLS traffic and revenues are provided and that the actual changes can be determined from the cost information provided. In addition, MCI claims that its intent in making the SPLS rate structure revisions is to

make it more viable and, therefore, any estimates of changes would have little significance. MCI contends that historical information concerning past sales and installations generally is not useful in preparing future forecasts and, in such instances, MCI bases the forecasts on marketing estimates.

18. Finally, in response to A.T. & T.'s contentions regarding the changes in cross-elasticity estimates, MCI argues that when the metered use service revisions were filed, the SPLS revisions had not been made and no cross-elasticity existed. However, when the SPLS revisions were submitted, MCI states that new cross-elasticity became apparent and was reflected in the more recent studies.

19. *Like services.* MCI distinguishes the different options of metered use service and SPLS which A.T. & T. argues are like services on the basis of different rates. MCI acknowledges that there are "similarities" in the provision of the services. MCI contends that its service options are designed to offer different combinations of service features and rates to meet customer demand and that they do not constitute a violation of section 202(a).

III. Discussion

20. Several fundamental changes to the metered use service and SPLS tariff offerings have been proposed by MCI. These revisions and the arguments of A.T. & T. and MCI are significant and require our careful consideration. In evaluating the tariff revisions, we find that it is necessary to discuss the merits of the parties' contentions and our concerns in several contexts. First, we will address the public interest questions raised by A.T. & T. Then, we will consider the adequacy of MCI's filings and the accompanying justification against the standards set forth in our rules and the Communications Act. Specifically, we will evaluate the compliance of MCI's submissions with § 61.38 of the rules, which requires a carrier to supply certain information in support of its tariff charges. We will also consider the justification for the revised rate structures based on the just and reasonable criteria of section 201(b) of the Act, 47 U.S.C. 201(b). Finally, we will address different discrimination issues raised under section 202(a) of the Act, 47 U.S.C. 202(a), such as whether the metered use service pricing alternatives constitute an unjust and unreasonable discrimination and whether various metered use service and SPLS options constitute like services and, if so, whether different rates for the same elements are unreasonably discriminatory.

A. PUBLIC INTEREST QUESTIONS

21. The arguments advanced by A.T. & T. are, by A.T. & T.'s own admission, the same as those made against the expansion of Execunet to 16 additional cities. We rejected A.T. & T.'s position in *MCI Telecommunications Corporation*, CC Docket No. 78-241, FCC 78-565 (released Aug. 18, 1978), para. 10. We find no new reason in this case to deviate from our determination made there that the public interest issues concerning competition in the interstate MTS field should be considered in the *MTS/WATS Market Structure Inquiry*, *supra*, rather than to seek separate resolution in connection with individual tariff filings.

B. COST SUPPORT MATERIAL

22. At the outset, it should be noted that except for the cost of service study for SPLS, MCI's cost support material filed with both transmittal Nos. 91 and 92 is substantially the same as that supplied with its earlier filings expanding Execunet to an additional 6 and 10 cities (transmittal Nos. 86 and 88, respectively). Because of the similarity of this data, it is appropriate to consider the supplemental cost material supplied by MCI on May 16, 1978 in connection with transmittal Nos. 86 and 88. The economic and financial support data remains essentially unchanged from the earlier submissions. On the basis of insufficiencies in the data accompanying transmittal Nos. 86 and 88, we designated those MCI filings for investigation in CC Docket No. 78-241, FCC 78-565 (released Aug. 18, 1978).

23. In the metered use service filing, costs in the 3-year projections are shown to increase 10 percent each year. No explanation is given for this amount and therefore its validity cannot be verified. In the SPLS filing, MCI utilized a revised method for allocating costs and in its reply to the A.T. & T. petition, MCI offers an explanation of the methodology used. However, MCI does not show how any of the allocation factors are derived or supplied.

24. We do not believe that the changes in MCI's cross-elasticity projections between the two tariff filings are, in and of themselves, cause for great concern. A period of time existed between the two filings. In this case we do not necessarily expect MCI to include the effects of future tariff filings in present revisions.

C. JUSTIFICATION FOR RATE STRUCTURE

25. Closely related to the question of whether MCI has complied with the requirements of § 61.38 of the rules is the issue of whether the rate structure changes for metered use service and SPLS have been adequately cost justi-

fied and can be considered just and reasonable. We have consistently held that the costs of providing a service are a primary basis for determining whether a carrier's rates are just and reasonable within the meaning of section 201(b) of the Act. In considering the rate structure changes to metered use service and SPLS, we must examine the cost justification for the distance insensitive intercity rate, the pricing alternatives to those basic intercity rates, and the local exchange service charges.

26. Although the actual intercity rates for the two services differ, MCI relies on the same rationale for the distance insensitive aspect of both rate structures, i.e., that most of the costs involved in providing the intercity portion of the services are distance insensitive. An analysis of MCI's costs for both metered use service and SPLS indicates that certain distance insensitive costs are present. In the case of metered use service, MCI identifies such categories of costs as data processing, local interconnection, switches and salaries as being distance insensitive, representing approximately 58 percent of the total metered use service costs. In the case of SPLS, MCI categories costs such as communication system operation (engineering

and maintenance), sales and marketing, customer service and installation, local interconnection, data processing and switches as distance insensitive, which comprise about 72 percent of the total estimated SPLS costs. These percentages are based on MCI's costs, which have not been adequately substantiated. We also question the categorization of some of the items as distance insensitive, such as the engineering and maintenance costs for SPLS. Those costs generally increase with distance, since more plant requires additional engineering and maintenance. Several other cost categories cannot be identified as being distance sensitive or not because of the lack of explanation offered by MCI of these cost categories. We are not convinced that a cost level of 58 percent or 72 percent is adequate to support a distance insensitive rate.

27. In addition, MCI supports this portion of its rate structure on the proposition that airline miles bear no relationship to the route miles a particular call travels. By way of illustration, in its reply to A.T. & T.'s petition against the metered use service filing, MCI sets forth a comparison between airline miles and route miles between selected city pairs for Execunet calls. A representative sample of these are repeated below:

Originating city	Terminating city	Airline miles	Route miles
Washington	Pittsburgh	191	522
Detroit	New York	481	949
Cleveland	Detroit	91	885
Los Angeles	Phoenix	359	2,128
Kansas City	Dallas	499	1,210
St. Louis	Tulsa	359	855

While MCI may have shown that, at least for some calls, airline miles between the originating city and the terminating city bear no consistent direct relationship to route miles between those locations, MCI has failed to show that no relationship exists between the two sets of mileage figures. MCI acknowledges that calls between several city pairs (particularly where MCI switches are located) travel much the same mileage as airline miles. In effect, MCI seems to be saying that it cannot define the relationship between the differing sets of mileage figures and thus that mileage is to be disregarded as a rate factor. Although as a common carrier, MCI's intercity facilities (both leased and owned) are primarily terrestrial and therefore have basically distance sensitive costs, we do not take the position that its rates must necessarily track these costs. But if MCI's rates do significantly vary from its costs, there must be justification for such deviation (e.g., bear costs that are caused by other

users. In this case we are concerned that short haul users may unreasonably bear costs that are imposed by long haul users.

28. As previously stated, various pricing alternatives are offered to customers of certain Metered Use Service options whereby the customer pays only 45 percent of the basic \$0.265 per minute rate (or \$0.119) for intercity facilities if that customer agrees to pay a higher monthly minimum intercity charge. (See para. 4 above and appendix II, attached.) This minimum is \$910 for Service 12 and \$650 for Option III. MCI has provided no justification for either the amount of reduction in the per minute rate or the amount of the monthly minimums.⁵ Also, the SPLS rate structure requires

⁵ The traditional way of applying bulk discounts is by steps, with all usage within a step paying the same rate. For example, all usage under 100 hours pays *x* rate, 100-200 hours *y* rate, and above 200 hours *z* rate. Such a rate structure presumably reflects

all customers to pay a given rate for intercity facilities for the first 60 hours of use per month, a lower rate for 61 to 240 hours and an even lower rate for over 240 hours. (See para. 7 above and appendix II, attached.) While the step method of employing discounts has been used by common carriers (see footnote 5), MCI has offered no justification for its selection of the various usage steps or the rate levels within each step.

29. Several questions relating to the cost justification for the MCI obtained exchange service portion of both metered use service and SPLS arise when the figures are compared with earlier MCI filings. In transmittal No. 91, MCI states that the current total monthly cost of 4,000 such local exchange lines is \$314,000. This number excludes the 700 lines which MCI considers to be inactive and results in a per circuit cost of approximately \$80 per month. In transmittal No. 92, MCI uses the same total costs, which we assume are based on the same figures, but it offers no explanation for these costs. Earlier, in transmittal Nos. 86 and 88, MCI provided a figure of \$320,000 as the monthly cost of 3,200 active local exchange lines. This resulted in a per circuit cost of about \$100 per month. However, in response to the Bureau's May 10, 1978, request for additional information, MCI stated that the total monthly cost for local exchange lines varied from \$328,000 to \$337,000 for 4,710 circuits which meant an average monthly cost of between \$69.66 and \$71.63 per circuit. MCI stated that those figures included inactive lines, which tended to reduce the average cost. Although MCI offers a superficial explanation for each of the above sets of figures, the frequency of change in these local exchange line costs and the number of lines included cause us to question further the validity of the most recent set of figures and the consistency in treatment of costs for local access lines.

30. The costs incurred by MCI in acquiring these exchange access lines from the telephone company are apportioned among MCI's metered use service and SPLS customers on a pro

declining costs as volume increases. In MCI's metered use services rate structure, on the other hand, the same discounted rate is applied to all usage by high volume customers, i.e., those agreeing to the higher minimum charge in advance but is not given to other customers even if their usage exceeds the high volume minimum. In contrast, it is interesting to note that MCI does employ the step rate structure for its SPLS, but does not provide any significant reason for the different approaches between the services.

rata basis. MCI determines a per minute cost based on the total number of minutes of usage of the exchange access lines divided by the total charges to MCI for the lines. Then, each customer's charge is computed by multiplying the per minute cost times the individual customer's number of minutes of usage. However, it is not clear whether this charge is calculated on a systemwide or servicewide basis. But more importantly there is no apparent way a customer could calculate the charges applicable to him since these would depend on the number of lines leased by MCI in any given month and their average use by other customers. Even the maximum charge applied in the current tariff would be eliminated.

31. Section 61.55(f) of the rules, 47 CFR 61.55(f), states that explanatory statements shall be "in clear and explicit terms regarding the rates and regulations contained in the tariff as may be necessary to remove all doubt as to their proper application." Moreover, subsection (h) of that same rule states that tariffs shall contain "[a]n explicit statement of the charges in cents or in dollars and cents of United States currency, per chargeable unit of service for all communications services * * *." Therefore, aside from the general question of the reasonableness of a rate element that the customer has no way of calculating or reasonably ascertaining in advance, it appears that the instant filings may be contrary to the Commission's rules.

D. DISCRIMINATION

32. In paragraphs 25-31 above, we were concerned with the adequacy and reasonableness of specific charges, which is treated in section 201(b). Pursuant to section 202(a), we also must consider the justness and reasonableness of the relationship between different charges for "like communication services." Two separate issues arise under this subject. The first is whether the discounts for two of the metered use service options are discriminatory. The second involves the question of whether metered use service and SPLS, or various options within these categories, are like services and therefore whether rate differentials between them must be justified.

PRICING ALTERNATIVES

33. In brief summary, the various rates for the intercity facilities portion of the metered used service are as follows:

Service option	Minimum monthly charge	Per minute charge
Option I (Execunet).....	\$75	\$0.265
Option II (Service 12).....	75	.265

Service option	Minimum monthly charge	Per minute charge
Option III	910	.119
	75	.265
	650	.119

For SPLS the same intercity portion is available for all options at the following rates:

Monthly hours use	Per minute charge
0 to 60	\$0.233
61 to 240	.183
Over 240	.058

Before addressing the like service question, it becomes immediately obvious that there are two different rate schedules for metered use service Options II and III and that subscribers to those service options pay two different rates. While it is possible that MCI could justify differences in these rate schedules on the basis of costs or some other rationale, it has not attempted to do so. Absent any such justification these rate differentials within these service options would appear to be clearly discriminatory.

34. Like services. As already noted, MCI's response to A. T. & T.'s like services argument is primarily that the rates for the particular service options are different and that the individual options are offered to meet customer demand. The test for like services is whether the services in question differ in "any material functional respect." See *American Trucking Association, Inc. v. FCC*, 377 F. 2d 121, 127 (1966), cert. denied, 386 U.S. 943 (1967); *Commodity News Service, Inc. v. FCC*, Case No. 75-2057 (D.C. Cir. Aug. 5, 1977); *A.T. & T., Series 7000, FCC 77-804* (released Mar. 30, 1978). MCI does not address the functional differences between any of the service options. However, it is evident that each of the SPLS options has a corresponding metered use service option which embodies the same type of access and terminating configurations, as well as the shared intercity facilities. This becomes apparent if we utilize the diagrams of appendix I to compare the options. Metered use Service 12 apparently corresponds to SPLS Option III, both of which utilize a dedicated access line to originate a call, shared intercity circuits and MCI obtained shared access facilities and exchange service in the terminating city. The new metered use service Option III appears to correspond to SPLS Option I, where dedicated access lines are utilized on both the originating and terminating ends and shared intercity circuits are used. SPLS Option II apparently corresponds to another metered

use service option (not illustrated)⁶ where a dedicated access line is used to originate a call, shared intercity circuits are utilized, and a customer obtained line or service is used to terminate the call. These facility comparisons raise substantial questions as to whether SPLS and metered use service options are like services since the facilities used for the various options appear to be identical and to perform the same functions. From the perception of the customer, the functions of each of the two options within the three sets of options compared would appear to be identical except for the differing charges incurred.

35. The rates for the metered use service and SPLS options compared above are clearly different. This can be seen from appendix II, where the rates for the various options of metered use service and SPLS are calculated based on 8,000 minutes of use per month. The comparisons of charges for the relevant options are repeated below:

Metered use service	SPLS
Option II (Service 12)	Option III
1. \$2,177.90 plus prorated exit line....	\$1,711.53 plus prorated exit line.
2. \$1,009.90 plus prorated exit line....	
Option III	Option I
1. \$2,235.80	\$1,779.43.
2. \$1,067.80	

Despite MCI's claim, rate differentials are not relevant in reaching a determination whether services are like. The costs of providing the service do not enter into the determination of whether there is a discrimination, but are only relevant to show whether a discrimination may be a reasonable one under the Act. See *A. Lindberg & Sons, Inc. v. U.S.*, 408 F. Supp. 1032 (W.D. Mich. 1976); *A. T. & T., series 7000, supra*. Rate differentials are thus an indication of a possible discrimination rather than a justification for such a discrimination. We have already stated that MCI has offered no cost justification for these different charges.

36. Therefore, we have a situation in MCI's two filings which raises substantial questions as to whether the various options are like services and, if so, whether the rate differentials are justified to the extent that no lawful discrimination exists, pursuant to section 202(a) of the Act. In fact, since the various options seem to be functionally the same, it is imperative to raise

⁶This metered use service configuration appears to be available from tariff descriptions.

the question of whether metered use service and SPLS are like services at this time. If it is found that these services or options within them are like, MCI will have the burden of proving that the varying charges are not unreasonably discriminatory.⁷

IV. CONCLUSION

37. We have set forth what we find to be the major deficiencies with MCI's tariff filings before us. These problems fall within two separate categories: (1) Deficiencies which are so substantial that their unlawfulness is almost certain; and (2) deficiencies which need to be investigated to determine whether they are lawful or unlawful.

38. The first category includes the absence of specific charges for MCI obtained exchange access lines in the tariff (see pars. 29-31 above) and the pricing alternatives for the intercity circuits in the charges for metered use service 12 and option III (see par. 33 above). We are prescribing a different procedural approach for dealing with these two deficiencies than the other category. In so doing, we recognize that MCI is a relatively small carrier involved in competitive markets and does not exert a dominant influence in those markets. Moreover, since the current MCI tariff is already in hearing, consolidation of these filings with that proceeding will be administratively convenient. Therefore, we will not reject MCI's tariff revisions at this time.⁸ Instead, we give MCI 30 days from the release date of this decision to either fully justify or modify the two tariff provisions set forth above. In the case of the exchange access lines, MCI should provide a detailed explanation of the reasons, as well as seek a waiver of § 61.55(h) of the rules, if it is unwilling to specify an exact charge or a formula by which a charge may be calculated in advance by the customer. With regard to the metered

use service pricing alternatives, MCI should either provide complete justification for the alternative charges or remove one of the alternatives from the tariff and include specific justification for the remaining charge. All interested parties will have 15 days from the date of MCI's submission to comment and MCI will have 10 days from the date comments are filed to reply. Based on these submissions, we will reach a determination as to the lawfulness of those particular tariff provisions involved, insofar as rejection is concerned, prior to the suspended effective date of the tariff revisions.

39. The deficiencies included in the second category include the cost justification for changes to the metered use service and SPLS offerings, the justness and reasonableness of the distance insensitive intercity rate for both metered use service and SPLS and the block intercity rates for SPLS customer, and possible unreasonable discrimination among various options of metered use service and SPLS. These deficiencies are sufficient to warrant investigation. Because of the commonality of the cost data between the filings already being investigated in CC docket No. 78-241 and the filings before us here, we will consolidate the investigation of transmittal Nos. 91 and 92 with the investigation previously initiated in CC docket No. 78-241. This will allow a more complete investigation into the major aspects of and interrelationships between MCI's metered use service and SPLS offerings. In consolidating the investigations, we believe that the main thrust of the hearing should focus on the revised tariffs, reflecting the changes made in transmittal Nos. 91 and 92, rather than on the earlier revisions, which expanded Execunet service to additional cities. We believe the issues in the existing proceeding are sufficient to cover the specific issues we have raised herein with regard to transmittal Nos. 91 and 92. This also pertains to the like service questions discussed above, which are to be included in the section 202(a) issue of the designation order in CC docket No. 78-241.

40. We have already indicated that metered use service customers making calls between city-pairs close in distance will experience rate increases because of the distance insensitive intercity rate element. We also stated that all SPLS customers will realize a rate increase when making 240 or fewer hours of calls per month. In addition,

substantial questions exist concerning the issues of discrimination among different customers to metered use service 12 and option III and between similar options of metered use service and SPLS. Because of the anticipated increases and the possibility that unreasonable discrimination exists, we are suspending the effectiveness of MCI's transmittal Nos. 91 and 92 for the full 5-month statutory period, pursuant to section 204 of the Act, 47 U.S.C. 204.

41. Accordingly, *It is ordered*, That, pursuant to sections 4(i), 4(j), 201, 202, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules filed by MCI Telecommunications Corp. with transmittal Nos. 91 and 92.⁹

42. *It is further ordered*, That, pursuant to the provisions of section 204 of the Act, the revised tariff schedules filed by MCI with transmittal No. 91 are hereby suspended until March 1, 1979, and the revised tariff schedules filed by MCI with transmittal No. 92 are hereby suspended until February 15, 1979.

43. *It is further ordered*, That MCI will have 30 days from the release of this decision to make the appropriate filings concerning the issues specified in paragraph 38 above, that all interested parties will have 15 days from the date of MCI's submission to file comments, and that MCI will have 10 days from the date any comments are filed to reply.

44. *It is further ordered*, That, pursuant to sections 4(i) and 4(j) of the Act, hearings in this investigation on the issues specified in paragraph 39 above are consolidated with those already established in CC docket No. 78-241.

45. *It is further ordered*, That the petitions to suspend and investigate filed by American Telephone & Telegraph Co. are granted to the extent indicated herein but otherwise are denied.

46. *It is further ordered*, That, the Secretary shall cause a copy of this order to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS
COMMISSION,¹⁰
WILLIAM J. TRICARICO,
Secretary.

⁷Even if these services are not determined to be like, a significant question remains as to whether the different rate levels for similar service elements, e.g., the intercity circuits, are reasonable.

⁸As we indicated in our Aug. 18, 1978 order (FCC 78-565) concerning MCI's previous tariff filing, the courts have not held that the duty to reject is absolute. Rather, they have recognized the need of agencies to exercise reasonable discretion not to reject when this best serves administrative purposes. *Municipal Light Boards v. FCC*, 450 F. 2d 1341 (D.C. Cir. 1971); *Associated Press v. FCC*, 448 F. 2d 1095 (D.C. Cir. 1971); *American Farm Lines v. Black Ball Freight Services*, 397 U.S. 532 (1970).

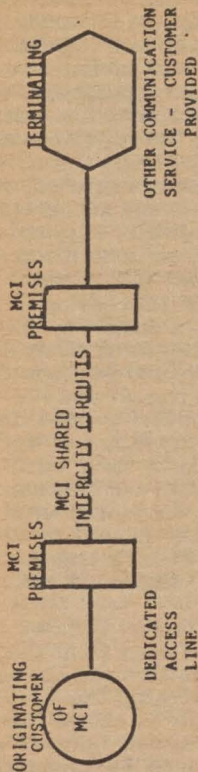
⁹Subsequent to the adoption of this memorandum opinion and order, but prior to its release, MCI withdrew both transmittal Nos. 91 and 92. Thus, there will be no investigation of those particular transmittals.

¹⁰See attached dissenting statement of Commissioner Joseph R. Fogarty.

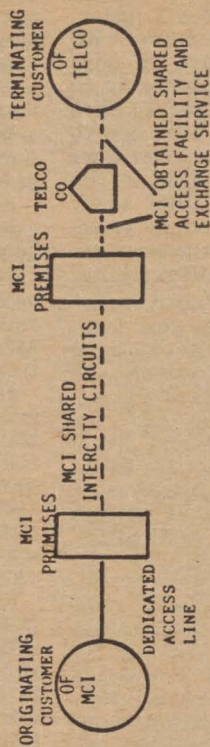
Appendix I

MCI SHARED PRIVATE LINE SERVICE (SPLS)

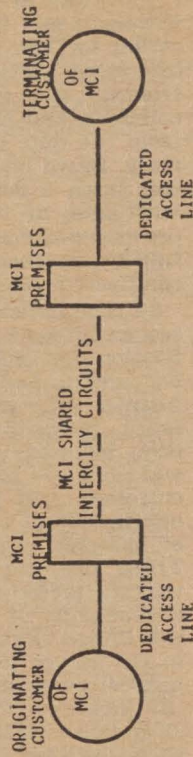
OPTION II



OPTION III (New)

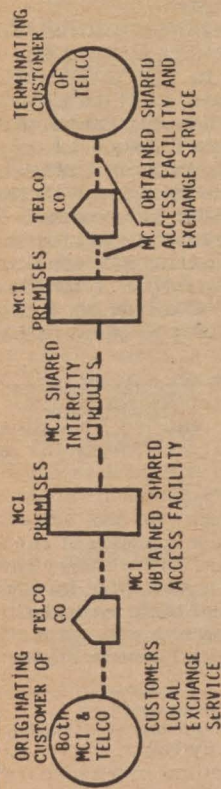


OPTION I

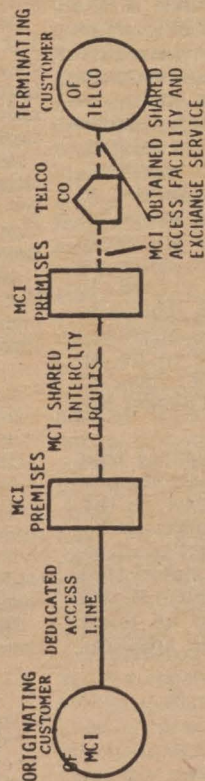


MCI METERED USE SERVICE

OPTION I (Execunet)



OPTION II (Service 12)



OPTION III (New)



NOTE.—Appendix II "Summary of Monthly Rates for Metered Use Service and SPLS Options" has been deleted. For information related to this document, contact Mr. John W. Hunter, 202-632-5550, Federal Communications Commission. Appendix II is filed as part of the original document.

**DISSENTING STATEMENT OF
COMMISSIONER JOSEPH R. FOGARTY**

In re: MCI Telecommunications Corp. transmittals No. 91 and 92.

The majority here faces two tariff filings which, without question, violate on their face sections 202(a), 203(a), 203(c) of the Communications Act and §§ 61.38, 61.55(g), and 61.55(h) of our rules. Yet it merely finds that the filings raise questions of reasonableness and suspends them. Why?

These filings contain without question discriminatory rates for like services. MCI has made no attempt even to allege that there is a justification for this statutory¹¹ violation. These filings make the tariff so unclear that the Commission cannot determine what services are being offered. MCI has made no attempt to define its services, despite statutory and regulatory language requiring tariffs to delineate services clearly.¹² These filings contain no specific rates for local channels. MCI specifies a rate in its sales literature but not in the tariff, despite statutory and regulatory language requiring rates to be specified in the tariff¹³ and making unlawful the marketing of services at any other rate.¹⁴

Under these circumstances, what is there to investigate? In order to cure the clarity and rate specificity defects, MCI must file a tariff revision. In order to make the discrimination lawful, MCI must present and support some justification. We cannot impute a justification under circumstances where the factors used in developing the rate are known only to MCI.

During the suspension period, the majority hopes to elicit additional information to enable the Commission to make a summary judgment. What more information do we need? MCI might make an attempt to justify the discrimination, but no additional pleadings or data can cure the other defects.

During the Commission meeting discussing this tariff, it was suggested that we should consider holding the specialized carriers to a standard different from that which we apply to A.T. & T. While it may be appropriate to modify our filing requirements to some extent to meet the realities of the competitive marketplace, we certainly should not summarily waive the rules on an ad hoc basis. Further, the Commission has no right to waive the

Act, and no modification of our requirements could cure the statutory violations here. However, any modifications we do adopt should be after an inquiry or rulemaking proceeding, not on the basis of a particular tariff filing.

Meanwhile, our limited staff resources will be spent conducting a hearing on a tariff which "is so patently a nullity as a matter of substantive law, that Administrative efficiency and justice are furthered by obviating any docket at the threshold * * *"
Municipal Light Boards v. F.P.C., 450 F. 2d 1341, 1346 (D.C. Cir., 1974). I would reject.

[FR Doc. 78-28062 Filed 10-5-78; 8:45 am]

[6732-01]

**FEDERAL MEDIATION AND
CONCILIATION SERVICE**

**FMCS ARBITRATION SERVICES ADVISORY
COMMITTEE**

Recertification

Pursuant to section 9(c) of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Federal Mediation and Conciliation Service announces the intent to file recertification with the appropriate committees of the Senate and the House of Representatives on or before December 8, 1978.

The objectives of the committee are as follows: (1) Advise the Director of FMCS on the means and methods of providing better arbitration services; (2) review and evaluate the existing criteria for determining selection of applicants to the FMCS roster of arbitrators; (3) advise on the promulgation of new criteria to be utilized in selecting applicants; (4) advise on means to achieve a more efficient and effective utilization of the existing roster of arbitrators; (5) advise the Director of Arbitration Services on ways to utilize training programs and other technical assistance to and in improving arbitration services; (6) serve as a forum for exchange of ideas and opinions of interested persons.

Additional information regarding the FMCS Arbitration Services Advisory Committee may be obtained from John Grimes, Advisory Committee Management Officer, Federal Mediation and Conciliation Service, Washington, D.C. 20427, telephone 653-5226.

WAYNE L. HORVITZ,
Director.

[FR Doc. 78-28251 Filed 10-5-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

**ALPHA AGENCY, INC., AND PIERCE AGENCY,
INC.**

Acquisition of Additional Shares of Bank

Alpha Agency, Inc., Aztec, N. Mex., and its subsidiary, Pierce Agency, Inc., Aztec, Inc., Aztec, N. Mex., have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirectly 90,478 or more additional voting shares of the Citizens Bank, Farmington, N. Mex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 17, 1978.

Board of Governors of the Federal Reserve System, September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28253 Filed 10-5-78; 8:45 am]

[6210-01]

CHENOA CORP.

Formation of Bank Holding Company

Chenoe Corp., Farmer City, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 51 percent or more of the voting shares of Bank of Chenoe, Chenoe, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Chenoe Corp., Farmer City, Ill., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), for permission to continue to perform certain nonbanking activities. Notice of the application was published on July 13, 1978 in the Clipper Times and Journal, a newspaper circulated in McLean County, Ill.

Applicant states that it would engage in the activity of serving as broker for the sale of credit life insurance and credit accident and health insurance directly related to extensions of credit by Bank. Such activities have been specified by the Board in section 225.4(a) of regulation Y as permissible for bank holding companies, subject to

¹¹ 47 U.S.C. sec. 202(a).

¹² 47 U.S.C. sec. 203(a), 47 CFR 61.55(g).

¹³ 47 U.S.C. sec. 203(c), 47 CFR 61.55(h).

¹⁴ 47 U.S.C. sec. 203(c)(1).

Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 25, 1978.

Board of Governors of the Federal Reserve System, October 2, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28254 Filed 10-5-78; 8:45 am]

[6210-01]

CITIZENS, INC.

Formation of Bank Holding Company

Citizens, Inc., Winsted, Minn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 89.67 percent of the voting shares of Citizens State Bank of Winsted, Winsted, Minn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 23, 1978.

Board of Governors of the Federal Reserve System, September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28255 Filed 10-5-78; 8:45 am]

[6210-01]

CITIZENS BANKSHARES, INC.

Formation of Bank Holding Company

Citizens Bankshares, Inc., Farmington, N. Mex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Citizens Bank, Farmington, N. Mex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 17, 1978.

Board of Governors of the Federal Reserve System, September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28256 Filed 10-5-78; 8:45 am]

[6210-01]

OKLAHOMA NATIONAL BANSHARES, INC.

Formation of Bank Holding Company

Oklahoma National Banshares, Inc., Oklahoma City, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring more than 80 percent (less directors' qualifying shares) of the voting shares of Oklahoma National Bank & Trust Co., Oklahoma City, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Oklahoma National Banshares, Inc., Oklahoma City, Okla., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the beneficial interest in Myriad Co., Oklahoma City, Okla., a proposed business trust which will own shares of Myriad Insurance Agency, Inc., Oklahoma City, Okla., a proposed corporate insurance agency. Notice of the application was published on August 9, 1978 in The Daily Oklahoman, a newspaper circulated in Oklahoma County, Okla.

Applicant states that the proposed subsidiary would engage in the activities of offering credit life insurance and credit accident and health insurance in connection with extensions of credit by its proposed subsidiary bank.

Such activities have been specified by the Board in section 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 26, 1978.

Board of Governors of the Federal Reserve System, September 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28257 Filed 10-5-78; 8:45 am]

[6210-01]

ST. JOSEPH AGENCY, INC.

Acquisition of Bank

St. Joseph Agency, South Bend, Ind., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire an additional 1.7 percent of the voting shares of St. Joseph Bank & Trust Co., South Bend, Ind. Applicant presently owns 13.51 percent of the voting shares of bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 27, 1978.

Board of Governors of the Federal Reserve System, September 28, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28258 Filed 10-5-78; 8:45 am]

[4110-88]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

**Alcohol, Drug Abuse, and Mental Health
Administration**

MINORITY ADVISORY COMMITTEE

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 October 1978:

Minority Advisory Committee, ADAMHA, October 23-25, 9 a.m. to open Meeting, Springfield Hilton Hotel, 6550 Loisdale Road, Springfield, Va. 22150. Contact: Ernest F. Hurst, room 13C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3838.

Purpose. The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda. The Committee is meeting concurrently with the ADAMHA Annual Conference of the State and Territorial Alcohol, Drug Abuse, and Mental Health Authorities. Agenda items on October 23 include a status report of ADAMHA's response to recommendations of the First Annual Conference on Minority Group Alcohol, Drug Abuse, and Mental Health Issues, and discussions with Executive Directors of National alcohol, drug abuse, and mental health associations. On October 24, the Committee will attend the Annual Conference. On October 25, 1 p.m., the Committee will reconvene to discuss the 1978-79 workplan and hear members' reports on liaison and special assignments. Mr. James C. Helsing, Deputy Director, Office of Public Affairs, ADAMHA, will furnish, on request, summaries of

the meeting and a roster of the Committee members. Mr. Helsing is located in room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3783.

Dated: October 3, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer,
Alcohol, Drug Abuse, and
Mental Health Administration.

[FR Doc. 78-28250 Filed 10-5-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78D-0330]

**CLINICAL EVALUATION OF SLOW-ACTING
DRUGS AGAINST RHEUMATOID ARTHRITIS**

Availability of Proposed Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the availability of a proposed guideline that is intended to reflect acceptable standards for clinical evaluation of slow-acting drugs used to treat rheumatoid arthritis. The guideline is being made available for public comment to provide the agency and the Arthritis Advisory Committee with views to be considered for incorporation into the final published guideline.

DATES: Comments by February 5, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION OR FOR COPIES OF THE GUIDELINE CONTACT:

Joyce Creamer, Bureau of Drugs (HFD-150), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4260.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is making available for comment a proposed guideline, prepared with assistance from the FDA Arthritis Advisory Committee, which describes procedures for clinical evaluation of slow-acting drugs for treating rheumatoid arthritis. If, following the receipt of comments, the Commissioner concludes that the guideline reflects acceptable procedures for the evaluation of these drugs, the guideline will be made available under §10.90(b) of agency regulations (21 CFR 10.90(b)). That section provides for use of guidelines to establish procedures of general applicability which

are not legal requirements but which are acceptable to FDA. A person who follows a guideline is assured that his or her conduct will be acceptable to FDA. A person may also choose to use alternative procedures or standards even though they are not provided for in the guideline. A person who chooses to do so may discuss the matter further with the agency to prevent expenditure of money and effort or work that later may be determined to be unacceptable by FDA.

The Commissioner has determined that this document does not contain an agency action covered by §25.1(b) and, therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

The proposed guideline has been placed in the public file of guidelines and is available for public inspection at the office of the FDA hearing clerk (address given above), between 9 a.m. and 4 p.m., Monday through Friday. Copies may be obtained by contacting Joyce Creamer, Executive Secretary, Arthritis Committee, Division of Oncology and Radiopharmaceutical Drug Products (HFD-150), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 201-443-4260.

On October 19, 1978, a subcommittee of the Arthritis Advisory Committee will meet to discuss the proposed guideline. The meeting will be held from 9 a.m. to 5 p.m. at the Food and Drug Administration, third floor, Conference Room G, 5600 Fishers Lane, Rockville, Md. Interested persons are invited to attend and participate in the discussion and review of the proposed guideline. Instructions for those who wish to participate in the discussion are contained in the notice of the meeting published in the FEDERAL REGISTER of September 15, 1978 (43 FR 41273), or may be obtained from the contact person named in this notice.

All comments received will be considered before the agency issues the final guideline.

Dated: October 2, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-28213 Filed 10-5-78; 8:45 am]

[4110-03]

[Docket No. 78D-0326]

DRUG COMBINATIONS FOR USE IN ANIMALS

**Notice of Availability of Guidelines and Open
Meeting**

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces the availability of the Bureau of Veterinary Medicine's revised guidelines regarding combination drug for use in animals. The agency also announces that a Combination Drug Workshop will be held for the purpose of illustration and exposition of these guidelines.

DATE: Open meeting on Wednesday, November 8, 1978, 9:30 a.m.

ADDRESS: Open meeting will be held in Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857; comments on the guidelines to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Robert J. Condon, Bureau of Veterinary Medicine (HFV-105), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1580.

SUPPLEMENTARY INFORMATION: Section 514.1(b)(8)(v) of the procedural new animal drug regulations (21 CFR 514.1(b)(8)(v)) establishes principles upon which new animal drug applications for combination products are reviewed. The section provides that:

*** Each ingredient designated as active in any new animal drug combination must make a contribution to the effect in the manner claimed or suggested in the labeling, and, if in the absence of express labeling claims of advantages for the combination such a product purports to be better than either component alone, it must be established that the new animal drug has that purported effectiveness.

The guidelines address more specifically the kind of data required to justify the approval of applications for new animal drugs containing more than one active ingredient.

Interested persons are invited to attend the combination Drug workshop being held at the time and place given above for the purpose of illustration and exposition of these guidelines.

The guidelines are available for public examination in the office of the hearing clerk at the address above, between 9 a.m. and 4 p.m., Monday through Friday. Written requests for single copies may be sent to the Food and Drug Administration, Bureau of Veterinary Medicine, Industry Information Branch (HFV-226), 5600 Fishers Lane, Rockville, Md. 20857.

Written comments on the guidelines may be submitted to the hearing clerk, preferably following the open meeting. All comments shall be identified by docket No. 78D-0326. Such comments

will be considered in determining whether amendments or revisions to the guidelines are warranted.

Dated: October 2, 1978.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner
for Regulatory Affairs.*

[FR Doc. 78-28212 Filed 10-5-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78G-0284]

HOFFMAN-TAFF, INC.

Withdrawal of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of a petition proposing affirmation that choline stearate used as a source of nutritional choline in livestock and poultry feeds for fortification purposes is generally recognized as safe (GRAS).

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), notice is issued in accordance with § 571.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 571.7) that Hoffman-Taff, Inc., has withdrawn its petition (GRASP MF-3569), notice of which was published in the FEDERAL REGISTER of May 23, 1974 (39 FR 18126), proposing that choline stearate used as a source of choline in livestock and poultry feeds is GRAS.

Dated: September 26, 1978.

LESTER M. CRAWFORD,
*Director, Bureau of
Veterinary Medicine.*

[FR Doc. 78-27925 Filed 10-5-78; 8:45 am]

[4110-03]

NATIONAL CONFERENCE ON REFERRAL CRITERIA FOR X-RAY EXAMINATIONS

Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a Conference on Referral Criteria for X-Ray Examinations. The conference is being convened by the Honorable Paul G. Rogers, Chairman, Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce, U.S. House of Representatives, and Mr. Joseph A. Califano, Jr., Secretary, Department of Health, Education, and Welfare (HEW). Details of the Conference are being arranged by FDA and the Health Care Financing Administration. The conference is being held to foster collaboration between the private sector and the Government in formulating strategies to: (1) Reduce unnecessary X-ray procedures; (2) produce, disseminate, and evaluate the use of X-ray referral criteria; (3) ameliorate problems concerning defensive radiology; (4) eliminate unwarranted, administratively required X-ray examinations; and (5) heighten consumer understanding of the benefits and limitations of diagnostic radiology. Representatives of health-related Federal agencies, State health departments, various medical specialties, third-party carriers, and the legal profession, and consumers have been invited to participate.

DATE: The Conference will be open to the public from 9 a.m. to 6:30 p.m. on October 25, 1978; from 8:30 a.m. until 4 p.m. on October 26, 1978; and from 8:30 a.m. to adjournment on October 27, 1978.

ADDRESS: The general sessions on October 25 and 27, 1978, will be held in the HEW North Auditorium, 330 Independence Avenue SW., Washington, D.C. 20201. Workshop sessions on October 26, 1978, will be held in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201. Participation in the workshops is by invitation, and attendance by the public will be limited to space available.

FOR FURTHER INFORMATION OR TO RESERVE SEATS FOR OBSERVATION OF THE WORKSHOP SESSIONS CONTACT:

Phyllis Segal, Bureau of Radiological Health (HFX-70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4600.

Dated: October 2, 1978.

WILLIAM F. RANDOLPH,
*Acting Associate Commissioner
for Regulatory Affairs.*

[FR Doc. 78-28214 Filed 10-5-78; 8:45 am]

[4110-03]

[Docket No. 77N-0238]

VENDING OF FOOD AND BEVERAGES**Revision of Model Sanitation Ordinance**

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration has completed revision of the model sanitation ordinance, "Vending of Food and Beverages," which was last revised in 1965. The purpose of this model ordinance is to provide the vending machine industry with sanitary standards and State and local governments with a comprehensive model law.

FOR FURTHER INFORMATION CONTACT:

A. Sidney Davis, Bureau of Foods (HFF-220), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204, 202-245-1511.

SUPPLEMENTAL INFORMATION:

In a notice published in the *FEDERAL REGISTER* of October 7, 1977 (42 FR 54626), the Commissioner of Food and Drugs proposed revisions in the model ordinance, "Vending of Food and Beverages," and invited comment on the proposal. The comment period closed on January 5, 1978.

A total of 14 letters containing 98 comments was received. The comments, which were used extensively in preparing the final document, dealt primarily with vending machine design and clarification of the language of the ordinance. Revision of the ordinance has been completed and submitted to the Government Printing Office.

A notice will be published in the *FEDERAL REGISTER* announcing availability of the model ordinance and procedures for obtaining copies. Pre-publication copies of the ordinance are being sent to Federal and State offices for their review, and a prepublication copy is available for public review in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Dated: September 29, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-28061 Filed 10-5-78; 8:45 am]

[4110-03]

WHITMOYER LABORATORIES**Whitmoyer Pink Eye Powder; Withdrawal of Approval of New Animal Drug Application**

AGENCY: Food and Drug Administration.

AGENCY: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application providing for use of Whitmoyer Pink Eye Powder intended for use in treating pink eye in cattle and in treating minor wounds in cattle, sheep, goats, and horses. This action is taken in response to a request by the sponsor, Whitmoyer Laboratories.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION:

Whitmoyer Laboratories, 19 North Railroad Street, Myerstown, Pa. 17067, is the sponsor of NADA 12-797 providing for Whitmoyer Pink Eye Powder which is intended for use in the treatment of pink eye in cattle and for the treatment of minor wounds in cattle, sheep, goats, and horses. The product contains 2 percent neomycin sulfate, 2.5 percent *para*-aminomethylsulfonamide-hydrochloride, 1 percent benzocaine, and 94.5 percent boric acid. The application was originally approved on February 4, 1963.

The sponsor informed the agency by letter of December 16, 1977, that the product is no longer manufactured, that marketing had been discontinued in March of 1971, and that no remaining stocks of the product were in inventory. The sponsor requested withdrawal of approval of the application and waived opportunity for a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 12-797 and all supplements for Whitmoyer Pink Eye Powder is hereby withdrawn, effective October 6, 1978.

Dated: September 28, 1978.

LESTER M. CRAWFORD,
Director, Bureau of
Veterinary Medicine.

[FR Doc. 78-28060 Filed 10-5-78; 8:45 am]

[4110-35]

Health Care Financing Administration**MEDICARE PROGRAM****Schedule of Guidelines for Physical Therapy Services**

The Health Care Financing Administration (HCFA) has established an updated schedule of guidelines for medicare program reimbursement for the costs of physical therapy services furnished under an arrangement between a therapist and a hospital or other institution.

Section 1861(v)(5) of the Social Security Act requires that the Health Care Financing Administration establish criteria for determining the reasonable cost of services furnished by a therapist under an arrangement with a provider of services, a clinic, a rehabilitation agency, or a public health agency. The services include physical therapy, occupational therapy, speech therapy, and other therapy services and services of other health specialists (other than physicians). Medicare program reimbursement for these services may not exceed an amount equal to the prevailing salary, plus an allowance for fringe benefits and other expenses related to furnishing therapy services. The requirements of the statute are implemented under regulations at 42 CFR 405.432.

Section 405.432 provides that HCFA will issue guidelines, with updates as necessary, to be used by medicare program fiscal intermediaries as a maximum hourly amount to be reimbursed to providers for physical therapy services furnished to medicare beneficiaries under an arrangement. These guidelines apply only to the amount of reimbursement the medicare program will make to a provider for physical therapy services obtained under an arrangement. The guidelines do not mandate how the provider pays the contracting therapist, who may make any arrangements with the provider that he wishes.

Under this authority, the initial guidelines to evaluate physical therapy services were published in the *FEDERAL REGISTER* on February 7, 1975, and were effective for provider cost reporting periods beginning on or after April 1, 1975 (40 FR 5810). Updated schedules were published in the *FEDERAL REGISTER* on:

February 19, 1976—effective for physical therapy services performed on or after April 1, 1976 (41 FR 7542), as revised by notice in

the FEDERAL REGISTER on August 3, 1976 (41 FR 36531).

August 3, 1977—effective for physical therapy services performed on or after October 1, 1977 (42 FR 39277).

The initial guidelines established a basic adjusted hourly salary equivalency amount consisting of the prevailing salary, plus a factor that accounts for fringe benefits and other expenses incurred in furnishing therapy services under arrangements and a standard travel allowance.

The physical therapy guidelines are based on data from the latest Bureau of Labor Statistics (BLS) Triennial Hospital Wage Survey. The survey was conducted in August 1975 (January 1976 on the west coast) in 23 major standard metropolitan statistical areas (AMSA's) throughout the United States. The Health Care Financing Administration designated 10 geographic regions to group the data and develop the guideline amount for each State by using either salary data directly from that State or by using a regional average.

The prevailing salary is based on the 75th percentile of salary ranges paid by hospitals in each SMSA to physical therapists employed full time. The 75th percentile of the salary ranges has been used in accordance with the recommendations of the Senate Committee on Finance (p. 251, S. Rept. 92-1230).

The fringe benefit and expenses factor that is added to the basic salary amounts obtained from the BLS data includes amounts which are generally received by an employee therapist, such as vacation pay, insurance premiums, pension payments, as well as expenses for maintaining an office, appropriate insurance, etc., an individual not working as an employee might incur in furnishing services under arrangements. Provider overhead expenses such as space, heat, light, etc., are not included since these costs are absorbed by the provider, even when therapy services are provided under arrangements. In developing the guidelines, it was determined by the Health Care Financing Administration that this fringe benefit and expenses factor would be 50 percent of the BLS salary amounts.

The fringe benefit component of this factor was derived from an analysis of a BLS study reported in Bulletin 1873, Employee Compensation in the Private Nonfarm Economy, 1972, and remains proximate according to the most recently available study reported in Bulletin 1963 issued in 1977. The expense component was developed from an analysis of data derived from trade journals and outside business organizations on the cost of maintaining an office.

This revised schedule of guidelines has been prepared using the same methodology as the original schedule and updated for inflation by using the most recently available figures for overall hospital wages determined by BLS (BLS Employment and Earnings Bulletin, line SIC-806 for April 1978). These figures were then used with the comparable figures for the month of the BLS Triennial Hospital Wage Survey (August 1975 or January 1976 as explained above) to obtain an overall percentage increase which was then applied to the physical therapy salary data.

EFFECTIVE DATE: The revised schedule of physical therapy guidelines which reflects an increase of approximately 13 percent will be applicable to physical therapy services performed on or after December 1, 1978, without regard to the beginning dates of providers' cost reporting periods; and will remain in effect until the effective date of any revised schedule that may be published.

FOR FURTHER INFORMATION CONTACT:

Mr. William Goeller, Medicare Bureau, Room 405 East Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9820.

SCHEDULE OF GUIDELINES FOR PHYSICAL THERAPY SERVICES FURNISHED UNDER ARRANGEMENTS

ADJUSTED HOURLY SALARY EQUIVALENCY AMOUNTS AND STANDARD TRAVEL ALLOWANCES FOR QUALIFIED PHYSICAL THERAPISTS (FULL TIME, REGULAR PART TIME, OR HOME VISITS)

Effective for Services Furnished on or After Dec. 1, 1978

(This schedule is not to be used for physical therapy assistants or aides)

State	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama	\$11.70	\$5.85
Alaska ¹	17.00	8.50
Arizona	13.70	6.85
Arkansas	11.30	5.65
California	13.70	6.85
Colorado	11.40	5.70
Connecticut	11.60	5.80
Delaware	13.70	6.85
District of Columbia	12.50	6.25
Florida	12.50	6.25
Georgia	11.00	5.50
Hawaii ²	16.10	8.05
Idaho	12.50	6.25
Illinois	12.50	6.25
Indiana	12.80	6.40
Iowa	11.40	5.70
Kansas	11.40	5.70
Kentucky	12.00	6.00
Louisiana	11.30	5.65
Maine	11.60	5.80
Maryland	12.00	6.00
Massachusetts	11.60	5.80
Michigan	13.50	6.75
Minnesota	12.20	6.10
Mississippi	11.70	5.85
Missouri	11.10	5.55

SCHEDULE OF GUIDELINES FOR PHYSICAL THERAPY SERVICES FURNISHED UNDER ARRANGEMENTS—Continued

(This schedule is not to be used for physical therapy assistants or aides)

State	Adjusted hourly salary equivalency amount	Standard travel allowance
Montana	11.40	5.70
Nebraska	11.40	5.70
Nevada	13.70	6.85
New Hampshire	11.60	5.80
New Jersey	13.70	6.85
New Mexico	11.30	5.65
New York	14.10	7.05
North Carolina	12.00	6.00
North Dakota	11.40	5.70
Ohio	12.60	6.30
Oklahoma	11.30	5.65
Oregon	13.20	6.60
Pennsylvania	12.80	6.40
Rhode Island	11.60	5.80
South Carolina	11.70	5.85
South Dakota	11.40	5.70
Tennessee	11.60	5.80
Texas	11.30	5.65
Utah	11.40	5.70
Vermont	11.60	5.80
Virginia	12.00	6.00
Washington	11.60	5.80
West Virginia	12.00	6.00
Wisconsin	12.30	6.15
Wyoming	11.40	5.70

¹ Adjusted for 25 pct salary differential.

² Adjusted for 17.5 pct salary differential.

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act), 49 Stat. (42 U.S.C. 1302, 1395f(b), 1395(a), 1395x(v)(5), 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance, and 13.774, Medicare-Supplementary Medical Insurance.)

Dated: September 29, 1978.

ROBERT A. DERZON,
Administrator, Health Care
Financing Administration.

[FR Doc. 78-28196 Filed 10-5-78; 8:45 am]

[4110-35]

MEDICARE PROGRAM

Schedule of Guidelines for Respiratory Therapy Services

The Health Care Financing Administration (HCFA) has established a schedule of guidelines for medicare program reimbursement for the costs of respiratory therapy services furnished under an arrangement between a therapist and a hospital or other institution.

Section 1861(v)(5) of the Social Security Act requires that HCFA establish criteria for determining the reasonable cost of services furnished by a therapist under an arrangement with a provider of services, a clinic, a rehabilitation agency, or a public health agency. These services include physical therapy, occupational therapy, speech therapy, and other therapy

services and services of other health specialists (other than physicians). Medicare program reimbursement for these services may not exceed an amount equal to the prevailing salary, plus an allowance for fringe benefits and other expenses related to furnishing therapy services. The requirements of the statute are implemented under regulations at 42 CFR 405.432.

Section 405.432 provides that HCFA will issue guidelines, with updates as necessary, to be used by Medicare program fiscal intermediaries as a maximum hourly amount to be reimbursed to providers for therapy services furnished to Medicare beneficiaries under an arrangement. These guidelines apply only to the amount of reimbursement the Medicare program will make to a provider for therapy services obtained under an arrangement. The guidelines do not mandate how the provider pays the contracting therapist, who may make any arrangements with the provider that he wished.

The Health Care Financing Administration has already issued proposed guidelines on the cost of physical therapy services, one of the most common types of therapy services obtained under such arrangements (41 FR 7542). This schedule of guidelines covers respiratory therapy services, the next most common therapy services obtained under such arrangements. Previously, Medicare program providers have been charged by therapy contractors on a fee-for-service basis or a percentage of the provider's billed charges and the providers have simply passed on these charges to the Medicare program as costs. Thus, where therapy services were furnished under an arrangement, the costs claimed by providers for Medicare program reimbursement may have had little relation to the actual cost of the services.

These guidelines establish a basic adjusted hourly salary equivalency amount that consists of the prevailing salary, plus a factor that accounts for fringe benefits and other expenses incurred in furnishing therapy services under arrangements. Additional allowances for travel, equipment, and supplies, and administrative responsibilities are also included as provided in 42 CFR 405.432.

The guidelines are based on data on salaries of hospital personnel from the latest Bureau of Labor Statistics (BLS) triennial hospital wage survey. The survey was conducted in August 1975 (January 1976 on the west coast) in 23 major standard metropolitan statistical areas (SMSA's) throughout the United States. The Health Care Financing Administration designated 10 geographic regions to group the data and develop the guideline amount for

each State by using either the salary data from the survey data directly from that State or by using a regional average.

These data have been updated to account for inflation by using the most recently available figure for overall hospital wages determined by the BLS (BLS Employment and Earnings Bulletin line SIC-806 for April 1978). This figure was used with the comparable figure for the month of the BLS triennial hospital wage survey (August 1975 or January 1976 as explained above) to obtain an overall percentage increase, which was then applied to the respiratory therapy salary data.

The prevailing salary is based on the 75th percentile of salary ranges paid by hospitals in each SMSA to respiratory therapists employed full time. The 75th percentile of the salary ranges has been used in accordance with the recommendations of the Senate Committee on Finance (page 251, S. Rept. 92-1230).

The fringe benefit and expense factor that is added to the basic salary amounts obtained from the BLS data includes amounts which are generally received by an employee therapist, such as vacation pay, insurance premiums, pension payments, as well as expenses for maintaining an office, appropriate insurance, etc., an individual not working as an employee might incur in furnishing services under arrangements.

Provider overhead expenses such as space, heat, light, etc., are not included since these costs are absorbed by the provider, even when therapy services are provided under arrangements. In developing the guidelines, it was determined by the Health Care Financing Administration that this fringe benefit and expense factor would be 50 percent of the BLS salary amounts.

The fringe benefit component of this factor was derived from an analysis of a BLS study reported in Bulletin 1873, Employee Compensation in the Private Nonfarm Economy, 1972. (It remains proximate according to the most recent available study reported in Bulletin 1963 issued in 1977.) This BLS study has been used because of the large sample size on which the BLS study is based, as well as the explicit direction of the Congress to use BLS data where feasible (page 251, S. Rept. 92-1230).

The expense component of the factor was developed from an analysis of data derived from trade journals and outside business organizations on the costs of maintaining an office.

The same factor has been used for the physical therapy guidelines to maintain consistency within the program. Any actual differences in the therapies will be recognized by differ-

ing BLS salary amounts or in equipment and supply costs.

In addition to the adjusted hourly salary equivalency amount, payment may be made under the medicare program for certain other costs for respiratory therapy services provided under arrangements.

As provided in 42 CFR 405.432, there are allowances for administrative or supervisory responsibilities, and for supplies and equipment that include full depreciation, interest, and tax expenses on equipment furnished by the therapist. The guidelines also include a standard travel allowance that accounts for the time (30 minutes on the average) it takes the therapist to travel to the provider site. Furthermore, there is an additional travel expense factor that accounts for actual costs of traveling to the provider site, as well as allowances for the costs of assistants and aides furnished by the therapist, and for overtime.

This schedule contains separate guideline amounts for registered and certified respiratory therapists. This difference in amounts acknowledges the fact that registered respiratory therapists are more extensively trained and, on the whole, have greater responsibility and authority than do certified respiratory therapists and as a result, constitute distinct occupational categories. Moreover, section 1861(v)(5) requires that reimbursement be based on the salaries actually paid to employed therapists and the BLS survey clearly shows that registered respiratory therapists are paid more than certified respiratory therapists.

A registered respiratory therapist is defined as a graduate of a respiratory care education and training program approved by the American Medical Association, or an individual with equivalent training and qualifications who has been registered by the American Registry of Inhalation Therapists, Inc. (ARIT), following successful completion of the ARIT examination. A certified respiratory therapist is an individual who has successfully completed a 1-year respiratory care training program, usually in a hospital or junior college, and who has been certified by the American Association for Respiratory Therapy (AART) following successful completion of the certification examination administered by the AART.

As recommended by the Senate Committee on Finance, the guidelines were sent, in proposed form, to the organizations which have an interest in the application of guidelines to the cost of respiratory therapy services. Comments and suggestions received and our responses are summarized below:

1. *Applicability of section 1861(v)(5) of the Social Security Act to respiratory therapy.* A number of commentators stated that due to substantial differences between physical therapy, which is life-enhancing, and respiratory therapy, which is life-supporting, the same reimbursement methodology should not apply. They believe that respiratory therapy is not covered by section 1861(v)(5). In our view, the statute does not distinguish between life-enhancing and life-supporting therapies. The statutory terms are sufficiently broad to cover respiratory therapy and there is no indication that it was not intended to do so. These guidelines are designed to reflect the extent to which there are differences between the types of therapy.

2. *Effect on rural areas.* Some commentators felt that the guidelines will disadvantage rural areas which frequently have to obtain respiratory therapy services under arrangements. No evidence has been submitted to indicate that BLS data are inappropriate for rural areas. Survey data obtained from the Department of Commerce indicate that salaries in the health care field are generally lower in rural areas. Therefore, applying the higher urban salary rates from the BLS data does not disadvantage rural providers.

3. *Cost of equipment and supplies.* A number of commentators believed the guidelines do not include an allowance for the high costs of equipment required by respiratory therapists. As noted above, the reasonable costs of equipment and supplies are covered in accordance with 42 CFR 405.432.

EFFECTIVE DATE: This schedule is applicable to respiratory therapy services furnished on or after December 1, 1978, without regard to the beginning dates of providers' cost reporting periods; and will remain in effect until the effective date of any revised schedule that may be published.

FOR FURTHER INFORMATION CONTACT:

Mr. William Goeller, Medicare Bureau, Room 405, East Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9820.

**SCHEDULE OF GUIDELINES FOR RESPIRATORY THERAPY SERVICES FURNISHED UNDER
ARRANGEMENTS**

**ADJUSTED HOURLY SALARY EQUIVALENCY AMOUNTS AND STANDARD TRAVEL ALLOWANCES FOR
REGISTERED AND CERTIFIED RESPIRATORY THERAPISTS**

[Full time or regular part time]

Effective for services furnished on or after December 1, 1978. (This schedule
is not to be used for respiratory therapy aides.)

State	Registered therapists		Certified therapists	
	Adjusted hourly salary equivalency amount	Standard travel allowance	Adjusted hourly salary equivalency amount	Standard travel allowance
Alabama.....	\$11.30	\$5.65	\$9.20	\$4.60
Alaska ¹	14.70	7.35	13.50	6.75
Arizona.....	11.70	5.85	10.80	5.40
Arkansas.....	11.10	5.55	8.10	4.05
California.....	11.70	5.85	10.80	5.40
Colorado.....	10.70	5.35	9.80	4.90
Connecticut.....	12.00	6.00	10.20	5.10
Delaware.....	12.90	6.45	11.00	5.50
District of Columbia.....	11.70	5.85	11.30	5.65
Florida.....	11.30	5.65	9.50	4.75
Georgia.....	11.30	5.65	8.70	4.35
Hawaii ²	13.80	6.90	12.80	6.40
Idaho.....	10.70	5.35	9.20	4.60
Illinois.....	11.60	5.80	10.40	5.20
Indiana.....	10.80	5.40	10.20	5.10
Iowa.....	10.40	5.20	8.90	4.45
Kansas.....	10.40	5.20	8.90	4.45
Kentucky.....	10.50	5.25	10.10	5.05
Louisiana.....	11.10	5.55	8.10	4.05
Maine.....	12.00	6.00	10.20	5.10
Maryland.....	10.70	5.35	10.70	5.35
Massachusetts.....	12.00	6.00	10.20	5.10
Michigan.....	10.80	5.40	10.80	5.40
Minnesota.....	9.90	4.95	8.90	4.45
Mississippi.....	11.30	5.65	9.20	4.60
Missouri.....	10.70	5.35	8.90	4.45
Montana.....	10.70	5.35	9.80	4.90
Nebraska.....	10.40	5.20	8.90	4.45
Nevada.....	11.70	5.85	10.80	5.40
New Hampshire.....	12.00	6.00	10.20	5.10
New Jersey.....	12.90	6.45	11.00	5.50
New Mexico.....	11.10	5.55	8.10	4.05
New York.....	14.70	7.35	11.40	5.70
North Carolina.....	10.50	5.25	10.10	5.05
North Dakota.....	10.70	5.35	9.80	4.90
Ohio.....	10.40	5.20	9.90	4.95
Oklahoma.....	11.10	5.55	8.10	4.05
Oregon.....	10.10	5.05	9.20	4.60
Pennsylvania.....	11.10	5.55	10.40	5.20
Rhode Island.....	12.00	6.00	10.20	5.10
South Carolina.....	11.30	5.65	9.20	4.60
South Dakota.....	10.70	5.35	9.80	4.90
Tennessee.....	9.30	4.65	8.40	4.20
Texas.....	11.10	5.55	8.10	4.05
Utah.....	10.70	5.35	9.80	4.90
Vermont.....	12.00	6.00	10.20	5.10
Virginia.....	10.50	5.25	10.10	5.05
Washington.....	11.30	5.65	9.20	4.60
West Virginia.....	10.50	5.25	10.10	5.05
Wisconsin.....	10.80	5.40	9.60	4.80
Wyoming.....	10.70	5.35	9.80	4.90

¹Adjusted for 25 pct. salary differential.

²Adjusted for 17.5 pct. salary differential.

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), 1871 of the Social Security Act), 49 Stat. (42 U.S.C. 1302, 1395f(b), 1395(a), 1395x(v)(5), 1395hh).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance, and 13.774, Medicare-Supplementary Medical Insurance.)

Dated: September 29, 1978.

ROBERT A. DERZON,
Administrator,
Health Care Financing Administration.

[FR Doc. 78-28197 Filed 10-5-78; 8:45 am]

[4110-08]

National Institutes of Health

REPORT ON BIOASSAY OF 2-CHLORO-P-PHENYLENEDIAMINE SULFATE FOR POSSIBLE CARCINOGENICITY

Availability

2-Chloro-p-phenylenediamine sulfate (CAS 61702-44-1) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of 2-chloro-p-phenylenediamine sulfate was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an ingredient of hair dyes. 2-Chloro-p-phenylenediamine sulfate was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay there was insufficient evidence that dietary administration of 2-chloro-p-phenylenediamine sulfate was carcinogenic to Fischer 344 rats or 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.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-27982 Filed 10-5-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF CHLOROTHALONIL FOR POSSIBLE CARCINOGENICITY

Availability

Chlorothalonil (CAS 1897-45-6) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade chlorothalonil for possible carcinogenicity was conducted by administering the test chemical in the diet to Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an agricultural fungicide

and as an ingredient in paints and other products.

It is concluded that under the conditions of this bioassay, technical-grade chlorothalonil was carcinogenic to Osborne-Mendel rats, producing tumors of the kidney. Chlorothalonil was not carcinogenic for 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.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-27980 Filed 10-5-78; 8:45]

[4110-08]

REPORT ON BIOASSAY OF IODOFORM FOR POSSIBLE CARCINOGENICITY

Availability

Iodoform (CAS 75-47-8) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of technical-grade iodoform was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an antiseptic. Iodoform in corn oil was administered by gavage, at either of two dosages, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, no convincing evidence was provided for the carcinogenicity of iodoform in Osborne-Mendel rats or 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.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: September 28, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-27981 Filed 10-5-78; 8:45 am]

[4210-01]

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Federal Disaster Assistance Administration

(FDAA-564-DR; Docket No. NFD-6451)

ARKANSAS**Amendment to Notice of Major Disaster
Declaration**AGENCY: Federal Disaster Assistance
Administration, HUD.

ACTION: Notice.

SUMMARY: This notice amends the
notice of major disaster declaration
for the State of Arkansas (FDAA-564-
DR), dated September 15, 1978.

-DATED: September 19, 1978.

**FOR FURTHER INFORMATION
CONTACT:**John Perry, Program Support Staff,
Federal Disaster Assistance Adminis-
tration, Department of Housing and
Urban Development, Washington,
D.C. 20410, 202-634-7825.NOTICE: The notice of major disaster
for the State of Arkansas dated Sep-
tember 15, 1978, is hereby amended to
include the following area among
those areas determined to have been
adversely affected by the catastrophe
declared a major disaster by the Presi-
dent in his declaration of September
15, 1978.

The county of Cross.

(Catalog of Federal Domestic Assistance No.
14.701, Disaster Assistance.)WILLIAM H. WILCOX,
*Administrator, Federal Disaster
Assistance Administration.*

[FR Doc. 78-28305 Filed 10-5-78; 8:45 am]

[4210-01]

(FDAA-564-DR; Docket No. NFD-6461)

ARKANSAS**Major Disaster and Related Determinations**AGENCY: Federal Disaster Assistance
Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of the
Presidential declaration of a major dis-
aster for the State of Arkansas
(FDAA-564-DR), dated September 15,
1978, and related determinations.

DATED: September 15, 1978.

**FOR FURTHER INFORMATION
CONTACT:**John Perry, Program Support Staff,
Federal Disaster Assistance Adminis-
tration, Department of Housing and
Urban Development, Washington,
D.C. 20410, 202-634-7825.NOTICE: Pursuant to the authority
vested in the Secretary of Housing and
Urban Development by the President
under Executive Order 11795 of July
11, 1974, and delegated to me by the
Secretary under Department of Hous-
ing and Urban Development Delega-
tion of Authority, docket No. D-74-
285; and by virtue of the Act of May
22, 1974, entitled "Disaster Relief Act
of 1974" (88 Stat. 143); notice is
hereby given that on September 15,
1978, the President declared a major
disaster as follows:I have determined that the damage in cer-
tain areas of the State of Arkansas resulting
from severe storms and flooding, beginning
about September 13, 1978, is of sufficient se-
verity and magnitude to warrant a major
disaster declaration under Pub. L. 93-288. I
therefore declare that such a major disaster
exists in the State of Arkansas.Notice is hereby given that pursuant
to the authority vested in the Secre-
tary of Housing and Urban Develop-
ment under Executive Order 11795,
and delegated to me by the Secretary
under Department of Housing and
Urban Development Delegation of Au-
thority, docket No. D-74-285, I hereby
appoint Mr. Joe D. Winkle of the Fed-
eral Disaster Assistance Administra-
tion to act as the Federal coordinating
officer for this declared major disas-
ter.I do hereby determine the following
areas of the State of Arkansas to have
been adversely affected by this de-
clared major disaster.

The counties of Pulaski and Saline.

(Catalog of Federal Domestic Assistance No.
14.701, Disaster Assistance.)WILLIAM H. WILCOX,
*Administrator, Federal Disaster
Assistance Administration.*

[FR Doc. 78-28306 Filed 10-5-78; 8:45 am]

[4210-01]

(FDAA-565-DR; Docket No. NFD-6471)

LOUISIANA**Major Disaster and Related Determinations**AGENCY: Federal Disaster Assistance
Administration, HUD.

ACTION: Notice.

SUMMARY: This is a notice of the
Presidential declaration of a major dis-
aster for the State of Louisiana
(FDAA-565-DR) dated September 20,
1978, and related determinations.

DATED: September 20, 1978.

**FOR FURTHER INFORMATION
CONTACT:**John Perry, Program Support Staff,
Federal Disaster Assistance Adminis-
tration, Department of Housing and
Urban Development, Washington,
D.C. 20410, 202-634-78251.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on September 20, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms and flooding, beginning about September 15, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Louisiana.

Notice is hereby that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, docket No. D-74-285, I hereby appoint Mr. William H. Mayer of the Federal Disaster Assistance Administration to act as the Federal coordinating officer for this declared major disaster.

I do hereby determine the following areas of the State of Louisiana to have been adversely affected by this declared major disaster.

The parishes of Ouachita and Richland.
(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Federal Disaster Assistance
Administration.

[FR Doc. 78-28307 Filed 10-5-78; 8:45 am]

[7030-01]

INDIAN CLAIMS COMMISSION

PRIVACY ACT OF 1974

Transfer of Records

Pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579, the following records are transferred to the General Services Administration system of records, Defunct Agency Records, GSA/OAD-36:

Financial Records—To be retained by the General Services Administration for use in concluding administrative operations of the Indian Claims Commission.

Payroll Records—To be retained by the General Services Administration for use in concluding administrative

operations of the Indian Claims Commission.

DAVID H. BIGELOW,
Executive Director.

[FR Doc. 78-28331 Filed 10-5-78; 8:45 am]

[4310-31]

DEPARTMENT OF THE INTERIOR

Geological Survey

COTEAU, N. DAK.

Known Recoverable Coal Resource Area

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, Aug. 4, 1976), Federal lands within the State of North Dakota have been reclassified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(34) NORTH DAKOTA

Coteau (North Dakota) known recoverable coal resource area; March 24, 1978; 20,626 acres previously classified (Velva known recoverable coal resource area), 1,400 acres deleted, and 112,947 acres added. Total area now reclassified 132,173 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, MS 609, Box 25046, Federal Center, Denver, Colo. 80225.

Dated: September 28, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-28264 Filed 10-5-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. ALLIED MAINTENANCE CORP., ET AL.

Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed consent judgement

and a competitive impact statement as set out below have been filed with the U.S. District Court for the Southern District of New York in *United States of America v. Allied Maintenance Corporation, et al.*, Civil No. 76 Civ. 286. The complaint in this action alleges that the 11 corporate defendants conspired among themselves and other co-conspirators to allocate customers for building maintenance services between and among themselves; to refrain from competing for customers so allocated; to submit noncompetitive, collusive, and complementary bids for contracts with customers and potential customers for building maintenance services; and to compensate each other for customers lost to one another in violation of section 1 of the Sherman Act. The proposed judgment enjoins each of the defendants for a period of 10 years from entering into any agreement with a competing contractor to fix prices for the rendering of any building maintenance service; to submit noncompetitive, collusive, or rigged bids to customers for the performance of such services; to not compete for or allocate customers of such services; or to compensate a competitor for the transfer of its building maintenance customer by payment of moneys, exchange or return of customers, or by any other means.

The defendants, under the decree, will be permitted only to agree to not compete for customers transferred in connection with the purchase or sale of a building maintenance business or any part thereof or for customers transferred under a subcontracting agreement in which one of the agreeing parties undertakes to render building maintenance services to the customer of the other agreeing party. Further, a defendant is permitted under the decree to pay or receive compensation for the transfer of a customer to or from a competitor only if it is in connection with the purchase or sale of a business or any part thereof or in connection with a subcontract agreement.

The proposed judgment also requires the defendants to send a copy of it to each of its customers for whom they rendered building maintenance services during the period from January 1, 1970, through October 31, 1974. In addition thereto, each defendant desiring to transfer a customer to a competitor, except in connection with the sale of business or part thereof, must notify such customer of the intended transfer not less than 15 days before the transfer becomes effective and identify the name and address of the transferee.

Public comment is invited within the 60-day statutory time period. Such comments and response thereto will be published in the *FEDERAL REGISTER*

and filed with the court. Comments should be directed to Ralph T. Giordano, Chief, New York Office, Antitrust Division, Department of Justice, 26 Federal Plaza, New York, N.Y. 10007.

Dated: September 28, 1978.

RICHARD J. FAVRETTO,
Deputy Director of Operations.

U.S. DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF NEW YORK

United States of America, Plaintiff, v. Allied Maintenance Corp.; Alpine Industries, Inc.; Anchor Cleaning Service, Inc.; Arcade Cleaning Contractors, Inc.; Coastal Enterprises, Inc.; Eastern Maintenance Service, Inc.; MacClean Service Co., Inc.; National Kinney Corp.; Prudential Building Maintenance Corp.; Temco Service Industries, Inc.; and Triangle Maintenance Service, Inc., Defendants.

Civil Action No. 76 Civ. 286 (CMM).

Filed: September 28, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the court, upon the motion of any party or upon the court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed final judgment by serving notice thereof on defendants and by filing that notice with the court.

2. In the event plaintiff withdraws its consent or if the proposed final judgment is not entered pursuant to stipulation, this stipulation shall be of no effect whatever and making of this stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

Dated: September 27, 1978.

For Plaintiff: John H. Shenefield, Assistant Attorney General, Richard J. Favretto, Ralph T. Giordano, Augustus A. Marchetti, Edward Friedman, Attorneys, Department of Justice, Antitrust Division, Room 3630, 26 Federal Plaza, New York, N.Y. 10007.

For the Defendants: Law firm of Malcolm A. Hoffmann, by Malcolm A. Hoffmann, on behalf of *Allied Maintenance Corp.*; Spiro, Felstiner, Prager & Treger, by Clarence R. Treger, on behalf of *Anchor Cleaning Service, Inc.*; Orenstein Snitow Sutak & Pollack, P. C., by Alan M. Pollack, on behalf of *Coastal Enterprises, Inc.*; Seavey, Fingerit & Vogel, by Irwin K. Fingerit, on behalf of *MacClean Service Co., Inc.*; Skadden, Arps, Slate, Meagher & Flom, by Edward J. Yodowitz, on behalf of *Alpine Industries, Inc.*; Paul Weiss Rifkind Wharton & Rison, by Martin London, on behalf of *National Kinney Corp.*; Kaye, Scholer, Fierman, Hays & Hand, by Fred A. Freund, on behalf of *Prudential Building Maintenance*

Corp.; Stroock & Stroock & Lavan, by Charles G. Moerdler, on behalf of *Temco Service Industries Inc.*; Martin Obermeier & Morvillo, by Thomas J. Fitzpatrick, on behalf of *Eastern Maintenance Service, Inc.*, and *Triangle Maintenance Service, Inc.*; Weil, Gotshal & Manges, by Robert G. Sugarman, on behalf of *Arcade Cleaning Contractors, Inc.*

U.S. DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF NEW YORK

United States of America, Plaintiff, v. Allied Maintenance Corp.; Alpine Industries, Inc.; Anchor Cleaning Service, Inc.; Arcade Cleaning Contractors, Inc.; Coastal Enterprises, Inc.; Eastern Maintenance Service, Inc.; MacClean Service Co., Inc.; National Kinney Corp.; Prudential Building Maintenance Corp.; Temco Service Industries, Inc.; and Triangle Maintenance Service, Inc., Defendants.

Civil Action No. 76, Civ. 286 (CMM).

Filed: September 28, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on January 16, 1976; and all parties by their attorneys having severally consented to the making and entry of this final judgment, without admission by any party in respect to any issue and without this final judgment constituting evidence or an admission by any party with respect to any such issue;

Now, therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I

This court has jurisdiction of the subject matter hereof and the parties consenting hereto. The complaint states claims upon which relief may be granted against the defendants under section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. 1), commonly known as the Sherman Act.

II

As used in this final judgment:

(A) "Person" shall mean any individual, partnership, corporation, association, or any other business or legal entity.

(B) The term "building maintenance" shall mean the providing of janitorial, repair, security, elevator, landscaping, and other services in connection with the use and occupancy of commercial, industrial, or institutional buildings, including but not limited to: interior cleaning and dusting, washing and waxing floors; vacuuming and cleaning carpets; cleaning and washing windows, walls and window coverings; servicing washrooms; operating and repairing elevator, heating, lighting, and ventilation facilities; providing security guard services; caring for landscaping; preparation of new buildings for occupancy and other related activities.

(C) The term "subcontracting agreement" shall mean any agreement or understanding to perform one or more building maintenance services or provide materials therefor so as to discharge a part or the whole of the obligation for which a supplier of building maintenance had committed itself to another person.

III

(A) Except as otherwise specifically stated herein, the provisions of this final judgment shall apply to the defendants, their respective officers, agents, servants, and employees, and to those persons in active concert or participation with any of them who shall receive actual notice of this final judgment by personal service or otherwise.

(B) The provisions of this final judgment shall not apply to activities between a defendant, and its officers, directors, agents, or employees, or between any of them, and its parent or subsidiary companies, their affiliate corporation (in which 50 percent or more of the voting stock is owned by a defendant, its parent or subsidiary company or a single individual owning more than 50 percent of a defendant) or their officers, directors, agents, or employees.

IV

Each defendant is hereby enjoined and restrained from the following:

(A) Entering into any agreement with any supplier of building maintenance services to fix prices for such services, except in connection with subcontracting agreements;

(B) Entering into any agreement with any supplier of building maintenance services to submit noncompetitive, collusive, or rigged bids to customers for the performance of such services;

(C) Entering into any agreement with any supplier of building maintenance services to not compete for, or to allocate, customers of such services, except in connection with transactions for the purchase or sale of a business or any part thereof, or in connection with a subcontracting agreement;

(D) Compensating another supplier of building maintenance services for the latter's transfer of a customer by payment of moneys, exchange, or return of customers, or any other means, except with regard to compensation to a seller for customers transferred in connection with the purchase or sale of a business, its shares, or any part of either.

V

Each of the defendants, and its subsidiaries and affiliates (as defined in paragraph III (B)), is ordered and directed to mail or cause to be mailed,

(A) To each of its customers of building maintenance services in New York County for the period January 1, 1970, through October 31, 1974, a copy of this final judgment together with the notice annexed hereto as exhibit A within sixty (60) days after the entry of this final judgment, and, within one hundred and twenty (120) days from the aforesaid date of entry, to file an affidavit with the clerk of this court setting forth the fact and manner of compliance with this section V(A); and

(B) To any customer in New York County it intends to transfer to another supplier of building maintenance services, not less than fifteen (15) days before such transfer, a statement of its intention to transfer any such customer to said supplier of building maintenance services, including therein the name and address of such transferee, except in connection with the sale of a business or shares thereof, or a subsidiary or division of said business.

VI

(A) For the purpose of determining or securing compliance with this final judgment,

any duly authorized representative of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to such defendant at its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this final judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview any officers, directors, agents, partners, or employees of such defendant, any of whom may have counsel present, regarding any such matters.

(B) Each defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing with respect to any of the matters contained in this final judgment, as may from time to time be requested, subject to any legally recognized privilege.

No information obtained by the means provided in this section shall be divulged by any representative of the Department of Justice of any person other than a duly authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this final judgment, or as otherwise required by law.

If at any time information or documents are furnished by any defendant to plaintiff pursuant to this section and such defendant represents that the material, or any portion thereof, in any such information or documents is of a type described in rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant identifies such material in writing and marks each pertinent page thereof, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then plaintiff shall give such defendant ten (10) days notice prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which such defendant is not a party.

VII

Jurisdiction is retained by this court for the purpose of enabling any of the parties to this final judgment to apply to this court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this final judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

VIII

This final judgment shall terminate and cease to be effective ten (10) years from the date of its entry.

IX

Entry of this final judgment is in the public interest.

Dated: _____, 1978.

U.S. District Judge.

U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. Allied Maintenance Corp.; Alpine Industries, Inc.; Anchor Cleaning Service, Inc.; Arcade Cleaning Contractors, Inc.; Coastal Enterprises, Inc.; Eastern Maintenance Service, Inc.; MacClean Service Co., Inc.; National Kinney Corp.; Prudential Building Maintenance Corp.; Temco Service Industries, Inc.; and Triangle Maintenance Service, Inc., Defendants.

Civil Action No. 76, Civ. 286 (CMM).

LEGAL NOTICE OF FINAL JUDGMENT IN CIVIL ACTION BROUGHT BY GOVERNMENT

Pursuant to a final judgment entered on consent in the above action in this court on _____, 1978, notice is being sent to all persons who purchased building maintenance services from the above-named defendants, their subsidiaries or affiliates in New York County from January 1, 1970, through October 31, 1974, to inform you that the above civil action, brought by the United States of America, has been settled on the consent of all parties.

This action was brought under section 1 of the Sherman Act, and was based upon the allegations of a separate Government proceeding that the defendants had conspired to restrain competition in New York County from January 1, 1970, to October 31, 1974. A separate class action, based on substantially the same allegations, was commenced in this court by four plaintiffs on behalf of customers of defendants, their subsidiaries and affiliates in New York County during the relevant period. That action is not affected by this settlement.

This action has been settled without the trial or adjudication of any issue of fact or law, and without admission by any party concerning any issue.

A copy of the final judgment is enclosed.

Dated: New York, N.Y., _____, 1978.

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK,
RAYMOND F. BURGHARDT,
Clerk of the Court.

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

United States of America, Plaintiff, v. Allied Maintenance Corp.; Alpine Industries, Inc.; Anchor Cleaning Service, Inc.; Arcade Cleaning Contractors, Inc.; Coastal Enterprises, Inc.; Eastern Maintenance Service, Inc.; MacClean Service Co., Inc.; National Kinney Corp.; Prudential Building Maintenance Corp.; Temco Service Industries, Inc.; and Triangle Maintenance Service, Inc., Defendants.

Civil No. 76 Civ. 286.

Filed: September 28, 1978.

PROPOSED CONSENT DECREE: COMPETITIVE IMPACT STATEMENT

The United States of America, pursuant to section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)), hereby submits this competitive impact statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

I. NATURE OF THE PROCEEDING

The United States, on January 16, 1976, filed a civil antitrust action under section 4 of the Sherman Act (15 U.S.C. 4) alleging that the above-named defendants and unnamed coconspirators from before 1970 had combined and conspired in violation of section 1 of the Sherman Act (15 U.S.C. 1) to allocate customers for building maintenance services between and among themselves; to refrain from competing for customers so allocated; to submit non-competitive, collusive, and complementary bids for contracts with customers and potential customers for building maintenance services; and to compensate each other for customers lost to one another. The complaint alleges further that, as a result of the said conspiracy, the prices for furnishing building maintenance services has been maintained and stabilized at artificial and noncompetitive levels; competition in building maintenance industries in New York has been restrained and eliminated; and customers of building maintenance companies in New York have been deprived of the right to purchase building maintenance services in an open and competitive market.

Entry by the court of the proposed consent judgment will terminate the action, except that the court will retain jurisdiction over the matter for possible further proceedings, within the 10 years next ensuing, which may be needed to interpret, modify, or enforce the judgment or to punish alleged violations of any of the provisions of the judgment.

II. DESCRIPTION OF THE PRACTICES INVOLVED IN THE ALLEGED VIOLATIONS

The defendants are among the largest building maintenance companies in the State of New York, who, in 1974, accounted for over \$192 million in sales of building maintenance services in New York County alone. Building maintenance is broadly defined both in the complaint and the proposed consent judgment as the providing of janitorial, repair, security, elevator, landscaping, and other services in connection with the use and occupancy of commercial, industrial, or institutional buildings. During the period beginning as early as 1970, the defendants regularly purchased substantial quantities of materials, supplies, and equipment which were essential to the furnishing of building maintenance services. Substantial portions of such goods were shipped in a continuous and uninterrupted flow in interstate commerce from manufacturers outside the State of New York directly to the defendants or the customers of the defendants within the State. The rendering of building maintenance services and the use of the supplies described above were essential for the operation of buildings in New York county devoted to the use and occupancy by commercial, charitable, and quasi-public enterprises.

III. EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States and the defendants have stipulated that the proposed consent judgment, in the form negotiated by and among the parties, may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation among the parties provides that there has been no admission by any party with respect to any issue of fact or law. Under the provisions of section 2(e) of the

Antitrust Procedures and Penalties Act, entry of the proposed judgment is conditioned upon a determination by the court that the proposed judgment is in the public interest.

A. PROHIBITED CONDUCT

The proposed judgment will prohibit each of the defendants from entering into any agreement with a competing contractor to fix prices for the rendering of any building maintenance service; to submit noncompetitive, collusive, or rigged bids to customers for the performance of such services; to not compete for or allocate customers of such services; or to compensate a competitor for the transfer of its building maintenance customer by payment of moneys, exchange, or return of customers, or by any other means. The defendants will be permitted under the decree to agree to not compete for customers only with a competitor to whom defendant has transferred such customer in connection with the purchase or sale of a building maintenance business or any part thereof or for customers transferred under a subcontracting agreement in which one of the agreeing parties undertakes to render building maintenance services to the customer of the other agreeing party. Also, a defendant is permitted under the decree to pay or receive compensation for the transfer of a customer to or from a competitor only if it is in connection with the purchase or sale of a business or any part thereof or in connection with a subcontract arrangement.

Each defendant will be required within 60 days after entry of judgment to furnish a copy of the judgment to each of its customers for whom they rendered building maintenance services during the period from January 1, 1970, through October 31, 1974. Each defendant within 120 days from the date of entry of the judgment must file an affidavit with the clerk of the court setting forth the fact and manner of compliance to the foregoing. In addition thereto, each defendant desiring to transfer a customer to a competitor must notify such customer of the intended transfer not less than 15 days before such transfer becomes effective, identifying in such notice the name and address of the transferee. A limited exception is allowed to each defendant permitting the transfer of a customer without providing any notice to the customer in those instances in which the customer is to be transferred in connection with the sale of a business or part thereof to the transferee.

B. SCOPE OF THE PROPOSED JUDGMENT

The proposed judgment applies to each defendant, its officers, agents, servants, and employees and to those persons in active concert or participation with any of them who shall receive actual notice of this final judgment by personal service or otherwise. Unless the court either modifies or vacates the proposed judgment, the defendants are bound by its prohibition for a period of 10 years from the date of its entry and thereafter the judgment shall terminate and cease to be effective.

The judgment would apply to the defendants' activities wherever they may occur in the United States.

EFFECT OF THE PROPOSED JUDGMENT ON COMPETITION

The relief encompassed in the proposed consent judgment is designed to prevent any recurrence of the conduct alleged in the

complaint. The prohibitive language of the judgment should insure that no future agreements or combinations will be arranged by, between or among the defendants to not compete or to allocate customers; to submit noncompetitive, collusive, and complementary bids to customers or potential customers of any contractor rendering building maintenance services or to compensate each other for customers lost to one another.

The judgment provides methods for determining defendants' compliance with the terms of the judgment. The Department of Justice, through duly authorized representatives, may interview officers, employees, and agents of each defendant regarding defendant's compliance with the judgment. The Government also is given access, upon reasonable notice, to examine each defendant's records for possible violations of the judgment and to request defendants to submit reports to the Government on matters contained in the judgment.

It is the opinion of the Department of Justice that the proposed consent judgment provides fully adequate provisions to prevent continuance or recurrence of violations of the antitrust laws charged in the complaint. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed judgment provides all the relief which the Government sought in its complaint, and the additional cost of litigation necessarily involved if the issues were litigated would not result in any additional relief. Accordingly, the public benefit is best served by the consent disposition of the action herein proposed.

IV. ALTERNATIVE REMEDIES CONSIDERED BY THE GOVERNMENT

The defendants made several proposals for a consent judgment which the Government concluded would not insure that the conspiracy charged in the complaint would not continue or recur. The Division, at the request of the defendants, made a counterproposal from which the consent judgment was negotiated. Briefly, summarized, the points of difference that ultimately were compromised between the parties involved the Government's demand that the decree be nationwide and that each defendant notify its customers of the conclusion of the within action by forwarding to each customer a copy of the final judgment after it had been approved and entered by the court. The defendants admitted that some of them, in addition to operating in New York State, operated in other States; however, they pointed out the Government alleged wrongful conduct only in the State of New York. Under these circumstances, the defendants contended, there would be no basis to require defendants to give notice to their customers outside of the State. The defendants further urged that to give notice to customers outside New York would subject them to needless embarrassment and hardship. The defendants concluded, therefore, that if notice were limited to the customers of each defendant in New York County during the period alleged in the companion criminal case (*U.S.A. v. Allied Maintenance et al.*, 76 Cr. 613 S.D.N.Y.), i.e., from prior to January 1, 1970, through October 31, 1974, all persons that could have been adversely affected by the acts charged in the complaint, would receive notice of the judgment in this action. The Government accepted

the defendants' arguments and the judgment contains the more limited notice requirements while remaining national in scope. The Government believes that the persons adversely affected by the defendants' covert actions during the period of their wrongful conduct as alleged in the complaint will receive notice of the consent judgment so that, if they so choose, they may pursue any private rights they may have against the defendants.

The Government, therefore, agreed to the limitation proposed by the defendants provided any future transfer of customers could be effected only after notice was given to the customer to be transferred. The Government's qualified acceptance of defendants' proposal, the defendants argued, would be acceptable except in those instances in which customers were transferred in connection with the sale of a building maintenance service business or a part thereof. In such instances, the defendants pointed out the value of the business or part thereof sold depended on the goodwill of such business, i.e., the maintenance service contracts in existence with customers at the time of the sale. Business realities, the defendants urged, mandates that customers be transferred without any prior notice of such sale since otherwise the goodwill of the vendor would deteriorate. Thus, if the judgment required that notice be given to such customers before the sale of a business or a part thereof, it would render the business unsalable regardless of the state of its goodwill. Accordingly, the defendants would agree to a judgment that required defendants to notify customers to be transferred only if defendants would be exempted from this obligation in those instances when such customer transfers were in connection with the sale of the business or part thereof. The Government does not dispute the defendants' analysis, and it has accepted defendants' requested exception. The Government notes further that the exception requested by the defendants, in light of the remaining injunctions in the judgment, will not enable the conduct alleged in the complaint to continue or recur.

V. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered as well as costs and reasonable attorney fees. Entry of the proposed consent judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of section 5(a) of the Clayton Act (15 U.S.C. 16(a)) this consent judgment has no prima facie effect in any lawsuits which may be pending or hereafter brought against the defendants.

VI. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Robert A. McNew, Antitrust Division, U.S. Department of Justice, Room 3630, 26 Federal Plaza, New York, N.Y. 10007, within the 60-day period provided by the Act. These comments, and the Department's responses to them, will be filed with the court and pub-

lished in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to its entry if it should determine that some modification of it is necessary. The proposed judgment provides that the court retains jurisdiction over this action, and the parties may apply to the court for such order as may be necessary or appropriate for its modification, interpretation, or enforcement.

VII. ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

The alternative to the proposed judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the final judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the judgment provides appropriate relief against the violations charged in the complaint.

VIII. OTHER MATERIALS

No materials and documents of the type described in section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16) were considered in formulating this proposed judgment. Consequently, none are submitted pursuant to such section 2(b).

Dated: New York, N.Y., September 28, 1978.

AUGUSTUS A. MARCHETTI,
EDWARD FRIEDMAN,
Attorneys,
Department of Justice.

[FR Doc. 78-28263 Filed 10-5-78; 8:45 am]

[4410-09]

IMPORTER OF CONTROLLED SUBSTANCES

Registration

By notice dated July 28, 1978, and published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35123), Applied Science Laboratories, Inc., Brush Valley Road, Oak Hall, Pa. 16827, made application to the Drug Enforcement Administration to be registered as an importer of tetrahydrocannabinol, organic (7371), a basic class of controlled substance listed in schedule I.

No comments or objections have been received. Additionally, there are currently no registered domestic bulk manufacturers or applicants therefor, of the substance listed. The substance, if imported will be supplied exclusively for authorized research or as chemical analysis standards. Therefore, in accordance with 21 U.S.C. 952(a)(2)(B) and 21 CFR 1311.42, and pursuant to section 1008(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: October 2, 1978.

PETER B. BENSINGER,
Administrator Drug
Enforcement Administration.
[FR Doc. 78-28269 Filed 10-5-78; 8:45 am]

[4410-09]

IMPORTER OF CONTROLLED SUBSTANCES

Registration

By notice dated July 28, 1978, and published in the FEDERAL REGISTER on August 4, 1978, (43 FR 34547), U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, Md. 20852, made application to the Drug Enforcement Administration to be registered as an importer of the basic class of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370).....	I
4-methyl-2,5-dimethoxy amphetamine (7395).....	I
3,4-methylenedioxy amphetamine (7400).....	I
Psilocybin (7437).....	I
Psilocy (7438).....	I

No comments or objections having been received, and, pursuant to section 1008 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firm is granted registration as an importer of the basic class of controlled substances listed above.

Dated: October 2, 1978.

PETER B. BENSINGER,
Administrator Drug
Enforcement Administration.
[FR Doc. 78-28270 Filed 10-5-78; 8:45 am]

[4410-09]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By notice dated August 2, 1978, and published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35124) Abbott Laboratories, 14th and Sheridan Road, Attn.: Customer Service D-345, North Chicago, Ill. 60064, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of pentobarbital (2270), a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, §1301.54(e), the Administrator hereby orders that the application

submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: October 2, 1978.

PETER A. BENSINGER,
Administrator Drug
Enforcement Administration.
[FR Doc. 78-28268 Filed 10-5-78; 8:45 am]

[4410-09]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By notice dated July 28, 1978, and published in the FEDERAL REGISTER on August 4, 1978 (43 FR 34547), Winthrop Laboratory, Division of Sterling Drug, Inc., 33 Riverside Avenue, Rensselaer, N.Y. 12144, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Meperidine (9230), a basic class of controlled substances listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, §1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: October 2, 1978.

PETER B. BENSINGER,
Administrator Drug
Enforcement Administration.
[FR Doc. 78-28271 Filed 10-5-78; 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 2 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 2d day of October 1978.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING SEPTEMBER 28, 1978

*Name of applicant, location of enterprise,
and principal product or activity*

Columbian Rope Co., Auburn, N.Y.; manufacture of cordage and twine.
Coombs & Haddad, Ltd., Laurel County, Ky.; shopping center.
Wilcox Inc., Effingham, Ill.; auto/truck stop.
Buckhart Land Co., Ltd., Sherman, Ill.; shopping and business center.
Spears Carpet Mills, Inc., Hope, Ark.; manufacture of carpets.
Old Tucson Corp., between Henderson and Boulder City, Nev.; amusement and recreation service.

[FR Doc. 78-27998 Filed 10-5-78; 8:45 am]

[4510-23]

Office of the Secretary

MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Competition

NOTE.—This document originally appeared in the FEDERAL REGISTER for October 4, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 32914, August 6, 1976.)

AGENCY: Employment and Training Administration.

ACTION: Announcement of additional jurisdictions to be open for competition and grantees to be funded without competition.

SUMMARY: This notice announces additional areas to be open for competition as outlined in the FEDERAL REGISTER of July 14, 1978, "Change of Funding Cycle and Related Changes." Also announced are grantees that will be funded without competition.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry Kranz, Acting Director, Office of Farmworker Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, 202-376-6128.

ADDITIONAL AREAS OPEN FOR COMPETITION

On July 14, 1978, the following areas were announced as open for competition: Alabama; county of Los Angeles, Calif.; Iowa; Louisiana; Massachusetts; Michigan; Minnesota; New Jersey;

New Mexico; Tennessee; Texas (all counties); and Wisconsin. The purpose of this notice is to announce additional jurisdictions open for competition pursuant to section 97.204(c)(4), title 29, subtitle A, for migrant and other seasonally employed farmworker programs operated under title III, section 303, of the Comprehensive Employment and Training Act. These additional areas are Pennsylvania, Nebraska, Oregon, and Idaho.

Preapplications for Federal assistance, standard form 424, must be submitted no later than October 10, 1978, to serve the four new States. Grant applications from potential grantees seeking to serve migrant and seasonal farmworkers in jurisdictions subject to competition must be submitted no later than November 1, 1978. Funding requests will be prepared in accordance with CFR, January 7, 1977, sections 97-212 through 97-218.

GRANTEES TO BE EXTENDED WITHOUT COMPETITION

Noncompetitive grantees will be extended by the major modification process for the period January 1, 1979, through September 30, 1979. Modifications for existing section 303 grants for continuing grantees must be submitted no later than October 23, 1978. These grantees, by State, are listed below:

ARIZONA

Migrant Opportunity Programs, Phoenix, Ariz.

ARKANSAS

Arkansas Council for Farmworkers, Inc., Little Rock, Ark.

CALIFORNIA

Center for Employment Training of the Central Coast Counties, San Jose, Calif.
Proteus Adult Training, Inc., Visalia, Calif.
Campesinos Unidos, Brawley, Calif.
California Human Development Corp., Santa Rosa, Calif.
Central Coast Counties Development Corp., Aptos, Calif.
City of Stockton, Stockton, Calif.

COLORADO

Colorado Council on Migrant and Seasonal Agricultural Workers and Families, Wheat Ridge, Colo.

CONNECTICUT

New England Farmworkers Council, Inc., Hartford, Conn.

DELAWARE

Migrant and Seasonal Farmworkers Association, Inc., Dover, Del.

FLORIDA

Florida State Department of Education, Tampa, Fla.

GEORGIA

Migrant and Seasonal Farmworkers Association, Inc., Atlanta, Ga.

HAWAII

Office of the Governor, Department of Labor and Industrial Relations, Honolulu, Hawaii.

ILLINOIS

Illinois Migrant Council, Chicago, Ill.

INDIANA

Indiana Office of Manpower Development, Indianapolis, Ind.

KANSAS

ORO Development Corp., Wichita, Kans.

KENTUCKY

Tennessee Opportunity Programs, Bowling Green, Ky.

MAINE

Penobscot County Manpower Administration, Bangor, Maine.

MARYLAND

Migrant and Seasonal Farmworkers Association, Inc., Princess Anne, Md.

MISSISSIPPI

Mississippi Delta Council for Farmworker Opportunities, Clarksdale, Miss.

MISSOURI

Rural Missouri, Inc., Jefferson City, Mo.

MONTANA

Human Resources Division, State of Montana, Helena, Mont.

NEVADA

CET-State of Nevada, Carson City, Nev.

NEW YORK

Program Funding, Inc., Rochester, N.Y.

NORTH CAROLINA

Migrant and Seasonal Farmworkers Association, Inc., Raleigh, N.C.

NORTH DAKOTA

North Dakota Migrant Council, Grand Forks, N. Dak.

OKLAHOMA

ORO Development Corp., Oklahoma City, Okla.

PUERTO RICO

Commonwealth of Puerto Rico, Department of Labor, San Juan, P.R.

RHODE ISLAND

New England Farmworkers Council, Inc., Pawtucket, R.I.

SOUTH CAROLINA

South Carolina Office of the Governor, Columbia, S.C.

SOUTH DAKOTA

Minnesota Migrant Council, St. Cloud, Minn.

UTAH

Utah Migrant Council, Midvale, Utah.

VERMONT

Orleans County Council of Social Agencies, Inc., Newport, Vt.

VIRGINIA

Migrant and Seasonal Farmworker Association, Inc., Richmond, Va.

WASHINGTON

Northwest Rural Opportunities, Grandview, Wash.

WEST VIRGINIA

Governor's Manpower Office, Charleston, W. Va.

WYOMING

Northwestern Community Action Programs of Wyoming, Inc., Worland, Wyo.

Grantees Should consult title 29, CFR, section 97.220.

Special instructions concerning grants and modifications will be issued in accordance with § 97.217, "Negotiations of Final Grant." All applicants should obtain these special instructions for the preparation of the grant applications from the Office of Farmworker Programs.

Signed at Washington, D.C., this 26th day of September 1978.

LAMOND GODWIN,

Administrator,

Office of National Programs.

(FR Doc. 78-28208 Filed 10-3-78; 8:45 am)

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARCHITECTURE, PLANNING AND DESIGN ADVISORY PANEL

Amended 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 Architecture, Planning and Design Advisory Panel to the National Council on the Arts which appeared in the FEDERAL REGISTER, Vol. 43, No. 174, p. 39868, Thursday, September 7, 1978, is amended as follows: The meeting will be held November 2, 1978, from 9 a.m. to 5:30 p.m., and on November 3, 1978, from 9 a.m. to 5:30 p.m., in Room 1426, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be Policy and Guidelines.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National En-

dowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

(FR Doc. 78-28272 filed 10-5-78; 8:45 am)

[3110-01]

List of Requests

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 29, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

ACTION

Youth Community Service Volunteer Application Addendum, single time, Applicants of YCS, 1,500 responses, 375 hours, Office of Federal Statistical Policy and Standard, Reese B.F., 637-7956.

DEPARTMENT OF COMMERCE

Bureau of Census, Local Review Program Response-1980 Decennial Census, D-71, single time, Highest Elected Official in 39,000 revenue-sharing entities, 39,000 responses, 3,250 hours, Office of Federal Statistical Policy and Standard, Reese B.F., 673-7956.

DEPARTMENT OF COMMERCE

Bureau of Census, Lower Manhattan Applied Behavior Analysis and Attitude Survey, D85XN, single time, Households in Lower Manhattan, 500 responses, 250 hours, Office of Federal Statistical Policy and Standard, Reese B.F., 673-7956.

NEW FORMS

DEPARTMENT OF DEFENSE

Departmental and Other Application for Discharge, on occasion, individuals Members of Active Duty Groups, 600 responses, 125 hours, Marsha Traynham, 395-3773.

DEPARTMENTAL OF THE TREASURY

Bureau of Customs, Foreign Trade Zone Forms, Customs, 214, 215, and 216, on occasion, Importers/Exporters, 84,000 responses, 8,400 hours, C. Louis Kincannon, 395-3211.

REVISIONS

VETERANS ADMINISTRATION

Statement of Income and Net Worth, 21-4100, on occasion, Pension Claimants, 350,000 responses, 175,000 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Bureau of Census, Annual Retail Trade Report, B-151, 152, 153, annually, Retail Business Firms, 32,000 responses, 21,440 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF LABOR

Employment Standards Administration, Report of Payments, LS-513, annually, Insurance Companies and Self-Insured Employers, 550 responses, 550 hours, Strasser, A., 395-6132.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service, Weekly Weather and Crop Report, weekly, County Extension agents, 130,800 responses, 21,800 hours, Office of Federal Statistical Policy and Standard, Ellett, C.A., 673-7956.

DEPARTMENT OF COMMERCE

Bureau of Census:
Finishing Plant Report (Production, Stocks, and Backlog of Finishing Orders for Broadwoven Fabrics), monthly report, M-22B, monthly, Finishers of Gray Fabrics, Manufacturers, 2,400 responses, 1,200 hours, C. Louis Kincannon, 395-3211.
Consumption of Fibers in Woolen Spinning and Production of Tops and Nolls and Tow to Top, M-22D, monthly, Manufacturing Establishments, 1,320 responses, 440 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF THE TREASURY

Bureau of Customs, Immediate Delivery Application, Customs 3461, on occasion, Importers Desiring Immediate Delivery of Merchandise, 610,000 responses, 30,500 hours, C. Louis Kincannon, 395-3211.

DAVID R. LEUTHOLD,

Budget and Management Officer.

[FR Doc. 78-28215 Filed 10-5-78; 8:45 am]

[4510-23]

THE PRESIDENT'S COMMISSION ON COAL

HEARINGS

The President's Commission on Coal (see 43 FR 41105) will hold public hearings at the following locations and times:

OCTOBER 20, 1978

State Capitol Conference Center, 1900 Washington Street East, State Capitol Complex, Charleston, W. Va.

OCTOBER 26, 1978

Main Auditorium, University of Denver College of Law, 200 West 14th Avenue, Denver, Colo.

These hearings are the first of several which will be held around the country to assure that the views of the public are heard and considered by the Commission in its study.

The Commission was created to conduct a comprehensive review of the state of the coal industry in the United States with particular emphasis on matters pertaining to productivity, capital investment, and the general economic health of industry; collective bargaining, grievance procedures, and such other aspects of labor-management relations as the Commission deems appropriate; health, safety, and living conditions in the Nation's coal fields; the development and application of new technologies to the industry; the impact on the coal industry of Federal regulations and such other matters as the Commission deems appropriate.

Both the Charleston and Denver sessions will begin at 9 a.m. and continue, with a lunch break, until approximately 5 p.m. The Commission will also accept written statements for a period of 30 days following the hearing from anyone unable to appear in person.

Anyone wishing to testify at either hearing, or to submit a written statement, should contact Mr. James Childress, President's Commission on Coal, Box 1424, Washington, D.C. 20013, or call 202-673-7925.

Dated: October 3, 1978.

MICHAEL S. KOLEDAS,
*Executive Director, President's
Commission on Coal.*

[FR Doc. 78-28308 Filed 10-5-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[(File No. SR-BSECC-78-2) Rel. No. 15192]

BOSTON STOCK EXCHANGE CLEARING CORP.

Order of Summary Abrogation

SEPTEMBER 26, 1978.

Notice is hereby given that the Securities and Exchange Commission has issued an order, pursuant to section 19(b)(3)(C) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78s(b)(3)(C)), summarily abrogating a rule of the Boston Stock Exchange Clearing Corp. ("BSECC").

On August 30, 1978, BSECC filed with the Commission a rule change (the "Rule Change") establishing a charge on its members for the clearance and settlement of transactions effected through the Intermarket Trading System ("ITS").¹ BSECC designated the Rule Change to take effect upon filing with the Commission pursuant to section 19(b)(3)(A) of the Act (15 U.S.C. 78s(b)(3)(A)) and, on September 1, 1978, the Commission published notice of the filing and effectiveness of the Rule Change.² In its notice, the Commission specifically noted that section 19(b)(3)(C) of the Act provides that, within 60 days of the filing of the Rule Change, it may summarily abrogate the Rule Change if it appears that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.³

The Rule Change imposes an additional charge for the clearance and

¹The ITS, which has been implemented by the American, Boston, Midwest, New York, Pacific, and Philadelphia Stock Exchanges in accordance with a "Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage" (the "ITS Plan"), links the participating market centers and provides facilities for (i) the rapid and efficient routing of orders and administrative messages between and among participants and (ii) participation, under certain conditions, by members of all participating markets in opening transactions in these markets. The ITS Plan was filed with the Commission by the participating exchanges and, on Apr. 14, 1978, the Commission issued a temporary order, pursuant to section 11A(a)(3)(B) of the Act, authorizing the filing exchanges to act jointly in planning, developing, operating, and regulating the ITS in accordance with the terms of the ITS Plan for a period of 120 days from the date of the order (Securities Exchange Act Release No. 14861 (Apr. 14, 1978), 43 FR 17419). On Aug. 11, 1978, the Commission extended its temporary approval for an additional period of 1 year (Securities Exchange Act Release No. 15058 (Aug. 11, 1978)).

²Securities Exchange Act Release No. 15120 (Sept. 1, 1978), 43 FR 40968 (the "Notice").

³Id. at 2.

settlement of transactions effected through ITS of 2 cents per share plus 1 day's interest on the dollar value of the securities traded, based upon the interest rate charged at that time by BSECC's principal lender.⁴ BSECC has indicated that the imposition of this additional fee was necessary to reimburse it for additional expenses incurred in connection with the clearance and settlement of transactions effected through ITS, primarily personnel required to reconcile and report ITS transactions and finance charges incurred in order to make payments in other cities prior to receiving payments in Boston.

As stated in the notice, an organization representing specialists on the Boston Stock Exchange has expressed opposition to the imposition of these charges. Moreover, it appears that the Rule Change raises important questions relating to the Commission's statutory responsibility to facilitate the establishment of a national market system,⁵ particularly whether the imposition of these charges will act as a disincentive to the use of the ITS.⁶ In addition, the Commission believes that the procedures provided by section 19(b)(2) will provide a more appropriate mechanism for determining whether the Rule Change is consistent with the provisions of the Act. Therefore, it appears to the Commission that it would be appropriate in the public interest, for the protection of investors and otherwise in furtherance of the purposes of the Act for it to abrogate the Rule Change.

It is hereby ordered, pursuant to section 19(b)(3)(C) of the Act, that the BSECC Rule Change (File No. BSECC-78-2) is summarily abrogated as of this date, and that, if BSECC chooses to refile the Rule Change, it do so pursuant to section 19(b)(2) of the Act.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28219 Filed 10-5-78; 8:45 am]

⁴The text of the Rule Change was published as exhibit 1 to the notice.

⁵See Sec. 11A(a)(2) of the Act.

⁶See also the ITS Plan which provides that any fee or charge imposed by a participant not be of such size or so structured as to discourage use of the ITS.

[8010-01]

(812-4369) Rel. No. 10422]

CAPITOL LIFE INSURANCE CO. AND MERRILL LYNCH HIGH INCOME FUND, INC.

Notice of Application for an Order Approving a Certain Offer of Exchange for Exemptions

SEPTEMBER 29, 1978.

Notice is hereby given that the Capitol Life Insurance Co. ("Capitol Life"), Capitol Life Separate Account M, 1600 Sherman Street, Denver, Colo. 80203, a Colorado stock life insurer, Capitol Life Separate Account M ("Separate Account"), a separate account of Capitol Life, which is registered as a unit investment trust under the Investment Company Act of 1940 ("Act") and Merrill Lynch High Income Fund, Inc. ("Fund"), 165 Broadway, New York, N.Y. 10080, an open end management investment company registered under the Act (hereinafter collectively referred to as "Applicants") filed an application on September 26, 1978, and an amendment thereto on September 28, 1978, pursuant to section 11 of the Act for an order approving an offer of exchange and pursuant to section 6(c) of the Act for exemption from the provisions of section 26(a) and 27(c)(2) of the Act, to the extent noted below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Capitol Life is a wholly owned subsidiary of Providence Capitol Corp. and an indirect subsidiary of Gulf & Western Industries, Inc.

The Separate Account was established by Capitol Life pursuant to Colorado law in connection with the proposed issuance of certain group and individual variable annuity contracts (hereinafter, collectively "Contracts"). Assets of Separate Account will be invested in shares of the Fund. The Fund is managed by Fund Asset Management, Inc., an affiliate of Merrill Lynch Funds Distributor, Inc., the distributor for the Fund.

The Fund's primary objective is to maximize current income by investing in a diversified portfolio of fixed income securities, such as corporate bonds and notes, convertible securities, preferred stocks, and government obligations which it believes will offer high yields without undue risk. As a secondary objective, the Fund intends to seek capital appreciation when consistent with its primary objective.

The Fund's shares will be offered during an initial period which is expected to end on October 27, 1978. The minimum initial and subsequent purchase amounts are \$1,000 and \$300 respectively. Shares are sold at net asset value plus a maximum 4-percent sales load.

Applicants propose that Fund shares may be exchanged by a shareholder who has held same for a 45-day period for a variable annuity contract issued by Capitol Life and the Separate Account. Two types of Contracts would be offered: Group single payment variable annuity contracts ("Group Contracts"), and individual single payment variable annuity contracts ("Individual Contracts"). Purchase payments for the Contracts are amounts which result from the redemption of shares of the Fund by a shareholder who has elected to purchase a Contract. The amount of the purchase payment is the net asset value of the Fund shares redeemed for the purpose of purchasing a Contract at the time the election to purchase is made. The minimum single purchase payment is required to be the value of 500 shares of the Fund. A conversion fee of \$100 is deducted at the time an initial purchase payment is received for an Individual Contract or for a certificate under a Group Contract. This conversion fee is allocated, \$20 for reimbursement of policy issue expense, and \$80 for expected conversion expenses. That portion of the conversion fee allocated to conversion expenses may be deemed to be a sales charge pursuant to section 2(a)(35) of the Act.

An administrative charge of \$20 is deducted from an individual's account on each anniversary of the date it was established. A \$10 charge is made against an individual's account for each partial surrender and upon complete surrender of the account. When annuity payments begin, the value of an individual's account will be transferred to Capitol Life's general asset account in order to provide fixed annuity payments. Fixed annuity payments, once determined, may not be decreased by Capitol Life regardless of investment, mortality, or expense experience.

SECTION 11

Section 11(a) of the Act, as here pertinent, provides that it is unlawful for any registered open end investment company (or its principal underwriter) to make an offer to the holders of its securities (or of the securities of any other open end investment company), to exchange his shares for the shares of the same or another such company on any basis other than the relative net asset values of the respective securities, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that section 11(a) is applicable, in any event, to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

The Applicants state that such exchange as proposed would occur on the application of the individual, and that any issued certificates would be tendered to the transfer agent for this purpose. The exchange would be on the basis of the net asset values of the securities to be exchanged except for the \$100 conversion charge deducted at the time of exchange.

The Applicants assert that such conversion charge is deducted as reimbursement for the cost of establishing the variable annuity account, issuing the contract, and to cover expected expenses which result from the exchange of Fund shares for the variable annuity contracts. The amounts received from the conversion fee are not used to pay sales commissions but are devoted to costs related to initial administration and conversion expenses.

SECTIONS 26(a) AND 27(c)(2)

Section 26(a) of the Act, as here pertinent, provides, in substance, that a registered unit investment trust, and any depositor and underwriter for the trust, are prohibited from selling trust certificates unless the proceeds of all payments other than sales load are deposited with a qualified bank as trustee or custodian and held under an indenture or agreement containing specified provisions. Such agreement must provide, in part, that: (i) The custodian bank shall have possession of all the property of the unit investment trust and shall segregate and hold the same in trust; (ii) the custodian bank shall not resign until either the unit investment trust has been liquidated or a successor custodian has been appointed; (iii) the custodian may collect fees from the income and, if necessary, from the corpus of the trust for services performed and for reimbursement for expenses incurred; and (iv) that no payment to the depositor or principal underwriter shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amounts as the Commission may prescribe, as compensation for performing bookkeeping and other administrative expenses normally performed by the custodian. Although the assets of the Separate Account are held under a safekeeping agreement with the State Street Bank & Trust Co. of Boston, Mass. ("Bank"), a bank having the qualifications described in section 26(a) of the Act, the agreement does not create a trust with respect to the assets of Separate Account because Capitol Life, as a life insurance company, must retain ownership of and control of the disposition of its property under Colorado law. Accordingly, an exemption is requested to the extent necessary, from the requirement that the assets be held in a trust.

In support of the requested exemption from the foregoing provisions of the Act, Applicants state that, under the custodian agreement, Capitol Life will pay the expenses for the safekeeping of Separate Account assets. Applicants also state that the ownership of Fund shares by Separate Account will be held in an open account so that the ownership of Fund shares by Separate Account will be indicated only on the books of the Fund and Separate Account and not evidenced by transferable stock certificates; and that, under the agreement, the assets of the Separate Account will be kept physically segregated by the Bank and held separate from the assets of any other firm, person or corporation. The Bank will maintain a record of all purchases and redemptions of Fund shares and will assist in the preparation of reports to the Commission.

Applicants further state that Capitol Life is subject to the extensive supervision and control by the Colorado insurance commissioner and the comparable official of each State in which it does business. Such supervision requires Capitol Life to file complete and detailed periodic reports. Applicants also state that the activities of Capitol Life are subject to review by the Colorado Insurance Department and its representatives at all times and are subject to comprehensive examinations periodically. Applicants allege that any substitution of an underlying Fund of the Separate Account can only take place by a majority vote of those having an interest in the Fund and with the prior approval of the Commission. Applicants finally state that Capitol Life maintains directly and through its parent, Providence Capitol, fidelity bonds covering its employees in the amount of \$2 million.

Applicants contend that the foregoing laws, regulations, and arrangements will provide substantial assurance that all obligations under the Contracts issued by Separate Account will be performed.

Applicants have consented that the foregoing requested exemption may be made subject to the following conditions: (1) That the charge under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose, and (2) that the payment of sums and charges out of the assets of Separate Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative ser-

vices, and Applicant reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Applicants assert that the \$10 charge levied upon a partial or total surrender of the Contract is a transaction charge designed to reimburse actual expense incurred upon processing surrender requests but that such charge may be deemed to be a redemption fee. Accordingly, Applicants request an exemption to the extent necessary from sections 26(a) and 27(c)(2) to permit the imposition of this charge.

SECTION 6(c)

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act, or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 24, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following October 24, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28220 Filed 10-5-78; 8:45 am]

[8010-01]

[Rel. No. 20720 (70-6163)]

CENTRAL & SOUTHWEST CORP., ET AL.

Notice of Proposed Revisions to System Money Pool Arrangement

SEPTEMBER 29, 1978.

In the matter of Central & South West Corp., Central & South West Services, Inc., 2700 One Main Place, Dallas, Tex. 75250, Central Power & Light Co., P.O. Box 2121, Corpus Christi, Tex. 78403, Southwestern Electric Power Co., P.O. Box 21106, Shreveport, La. 71156, Public Service Company of Oklahoma, P.O. Box 201, Tulsa, Okla. 74102, West Texas Utilities Co., P.O. Box 841, Abilene, Tex. 79604.

Notice is hereby given that Central & South West Corp. ("CSW"), a registered holding company, and five of its subsidiary companies, Central Power & Light Co. ("CPL"), Southwestern Electric Power Co. ("SWEPCO"), West Texas Utilities Co. ("WTU"), Public Service Company of Oklahoma ("PSO") and Central & South West Services, Inc. ("CSWS") (collectively the "subsidiaries") have filed with this Commission post-effective amendments to their application-declaration previously filed and amended in this matter pursuant to sections 6, 7, 9(a), 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and rules 43, 45 and 50 promulgated thereunder concerning the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders dated December 30, 1976, December 29, 1977, January 13, 1978, and June 30, 1978 (HCAR Nos. 19829, 20355, 20385 and 20608), applicants-declarants were authorized to establish a CSW System money pool ("money pool") to coordinate their short-term borrowings and to make borrowing outside the money pool from banks and through the issuance of commercial paper. The money pool is composed from time to time of funds from the following sources: (i) Surplus funds of CSW; (ii) surplus funds of any of the subsidiaries; (iii) borrowings by CSW or the subsidiaries from banks; and (iv) proceeds from CSW's sales of commercial paper. The current money pool authorization, effective through December 31, 1979, pro-

vides for an aggregate borrowing limitation of \$200,000,000 and individual borrowing limitations in the following amounts: CSW, \$200,000,000; CPL, \$71,000,000; PSO, \$74,000,000; SWEPCO, \$50,000,000; WTU, \$20,000,000, and CSWS, \$2,000,000.

CSW administers the money pool by matching up, to the extent possible, short-term cash surpluses and loan requirements of itself and its subsidiaries. Subsidiary requests for short-term loans are met first from surplus funds of the other subsidiaries which are available to the money pool and then from CSW's corporate funds, to the extent available. When these sources of funds are insufficient to meet short-term loan requests, borrowings are made from outside the system. To that end CSW was authorized to issue and sell its commercial paper to A-G Becker & Company, Inc. ("Becker"), at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity sold by issuers to commercial paper dealers, and at an interest cost not exceeding the effective cost of money for unsecured prime-rate commercial bank loans prevailing on the date of issue of such commercial paper.

CSW and its subsidiaries were also authorized, in the event that such borrowings would produce a lower effective cost of money than the issuance by CSW of its commercial paper, to borrow from banks to meet short-term borrowing needs which could not be met by the money pool. Such bank borrowings were also authorized even when the cost of such borrowings is not less than the cost of equivalent borrowings through the money pool if and only to the extent that such bank requires that the borrowings be made as a condition of maintaining the subsidiary's line of credit with the bank, subject to an aggregate limit at any one time outstanding of \$10,000,000 for all such bank borrowings and of \$5,000,000 for any one subsidiary.

The interest rate applicable to all loans of surplus funds through the money pool is the rate published in the Wall Street Journal for commercial paper placed directly by a major finance company and having a term most nearly equal to the term of the particular money pool loan in question. The interest rate applicable to the funds borrowed by CSW from external sources and loaned through the money pool is equal to CSW's net cost for the external borrowings.

By post-effective amendments applicants-declarants seek authorization:

(1) For CSW to issue and sell commercial paper to dealers other than Becker;

(2) To allocate costs of CSW's external borrowings upon a basis approximating the peak load requirements of the operating subsidiaries; and

(3) To borrow from banks in addition to the banks heretofore authorized.

Applicants-declarants state it has now become possible, with some although not all commercial paper dealers, to split business among several dealers. By doing so alternative quotations may be secured on particular transactions as to interest rate and/or the dealer's discount, and the paper may be sold to the dealer quoting the lowest cost of money. CSW requests authority to establish arrangements with one or more prospective dealers and to select the dealer or dealers who, in the judgment of its executive vice president and chief financial officer or its treasurer, will furnish the lowest net cost to CSW on the commercial paper it issues. Each dealer would be restricted to sales to not more than 200 institutional purchasers on a list furnished to this Commission.

Concerning the allocation of costs it is stated that in the case of compensating balances and fees paid to banks to maintain credit lines, it is not possible to allocate costs accurately as part of any particular loan, since the principal function of credit lines is to be an available credit source in addition to CSW's commercial paper. Applicants-declarants propose to allocate costs in such cases upon the basis of 10 percent to WTU, 30 percent to CPL, 30 percent to PSO and 30 percent to SWEPCO, such percentages reflecting the approximate peak load of the subsidiary to CSW's total peak load. Determination of the cost of compensating balances will be done on a monthly basis by (1) Calculating the weighted average daily cost incurred by CSW and the subsidiaries for borrowings from external sources during the month (or, if there were no such borrowings, then the most recent direct issue commercial paper rate); (2) multiplying such daily cost times the aggregate amount of compensating balances maintained on each day during the month; and (3) adding the products obtained. In the event that a borrowing is made from a source other than the lowest available cost of money pursuant to the exception referred to earlier, the cost incurred in excess of the cost of the alternative lowest cost borrowing will be deemed to be the equivalent of a compensating balance or other indirect cost, and will be distributed on the same basis proposed for such costs rather than borne entirely by the direct borrower involved. At the end of each calendar year the costs allocated on the basis of the percentages specified above will be retroactively reallocated for the year

among the subsidiaries (and CSW, should CSW borrow for its own corporate needs) pro rata on the basis of the relative weighted average principal amounts of borrowings incurred from external sources during the year for the benefit of each of such companies.

Concerning bank borrowings applicants-declarants seek authorization to borrow from the banks listed below. Borrowings would be at the prime rate in all cases except for loans from First National Bank in Dallas, Republic Na-

tional Bank & Irving Trust Co., in all three cases the rate being 107 percent of prime, and except for loans from Texas Commerce Bank, the terms of which are set forth below. Assuming a prime rate of 9 percent, the interest cost (including compensating balances and fees) would be 10 percent per annum for the nonfee banks, 10.52 percent for First National Bank in Dallas and 10.47 percent for the other fee banks. Applicants-declarants' bank lines as of August 31, 1978, were as follows:

Bank	Amount of line	Compensation basis*
Bankers Trust Co.	\$25,000,000	Balances.
First National Bank of Chicago	15,000,000	Do.
First National Bank in Dallas	6,500,000	Balances and fees.
Republic National Bank	5,000,000	Do.
Irving Trust Co.	5,000,000	Do.
Bank of Delaware	4,500,000	Balances.
Harris Trust & Savings	2,000,000	Do.
First City National Bank	2,000,000	Do.
Service area banks:		
Central Power & Light Co. (24 local banks)	29,345,000	Do.
Public Service Co. of Oklahoma	9,500,000	Do.
Southwestern Electric Power Co. (37 local banks)	20,615,000	Do.
West Texas Utilities (6 local banks)	8,515,000	Do.
Total	132,975,000	

*Balances maintained in support of lines of credit are generally nonsegregated working funds of the applicants and are not restricted as to withdrawal. These nonsegregated balances generally aggregate approximately 10 pct. of the line of credit. Substantial usage under these lines of credit could result in increased compensating balance requirements. Where a fee basis is maintained, a designated portion of the total line of credit is supported by a fee equal on an annual basis to the principal amount of that portion $\times$ 7 pct. $\times$ the prime rate. The balance of the line of credit in these situations is maintained on the compensating balances basis described above.

*\$4 million is supported by compensating balances and \$2.5 million by fees.

*\$2.5 million is supported by compensating balances and \$2.5 million by fees.

Borrowings of up to \$10,000,000 from Texas Commerce Bank would be from funds managed by its trust department, pursuant to a short-term borrowing agreement. The notes would be payable on demand or a stated maturity date not exceeding 6 months from date of issuance, would bear interest at a rate equal to the 90-day rate on General Motors Acceptance Corp.'s commercial paper, or, if CSW has outstanding commercial paper with a 90- to 180-day maturity, at the highest effective rate to the ultimate purchases of such paper.

The proceeds of short-term borrowings will be used (i) in the case of borrowings by CPL, PSO, SWEPCO, and WTU, for the interim financing of their construction programs and to provide for other temporary working capital needs; (ii) in the case of borrowings by CSW, for loans or contributions to capital to the subsidiaries for such purposes; (iii) in the case of borrowings by CSWS, to provide working capital for its operations; and (iv) to repay borrowings previously incurred for such purposes.

The estimated capital programs for

1978 and 1979 for the operating companies are as follows:

	1978	1979
CPL	\$247,000,000	\$216,000,000
PSO	257,000,000	251,000,000
SWEPCO	110,000,000	142,000,000
WTU	21,000,000	24,000,000

None of the proceeds from such borrowings shall be utilized to pay the cost of facilities ("interconnection facilities") which would not be needed to provide service to customers of any of the operating companies if such operating company were not part of the CSW System, nor will any expenditures be made by any of the operating companies for the construction or acquisition of any facility not so needed prior to the time all funds covered by this application-declaration have been expended. For the purposes of the foregoing representation, there is included within the meaning of the term "interconnection facilities" all facilities, construction or acquisition of which is or would be part of any proposal for synchronous interstate operation of the CSW System forming the

subject of the proceedings in *Central and South West Corporation, et al.* (Admin. Proc. file No. 3-4951) which would not also be required for the continuation of dissynchronous interstate/intrastate operation in the mode presently prevailing in the Central and South West System.

CSW requests exemption from the competitive bidding requirements of rule 50 under the Act in connection with the proposed issuance of commercial paper pursuant to paragraph (a)(5)(B) thereof.

No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The additional fees and expenses to be incurred in connection with the proposed transactions are estimated at \$750.

Notice is further given that any interested person may, not later than October 24, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as further amended by said posteffective amendments, which he desires to controvert or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as further amended by said posteffective amendments, or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28221 Filed 10-5-78; 8:45 am]

[8010-01]

[Rel. No. 20716 (70-6206)]

CENTRAL & SOUTH WEST CORP.**Notice of Proposed Issue and Sale of Unissued Common Stock Pursuant to an Employees Investment Plan and Request for Exception From Competitive Bidding**

SEPTEMBER 27, 1978.

Notice is hereby given that Central & South West Corp. ("CSW"), One Main Place, Dallas, Tex. 75250, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a) and 7 of the Act and rules 20(a), 50 and 100(a) promulgated thereunder regarding the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below for a complete statement of the proposed transaction.

CSW proposes to issue and sell not to exceed 1,000,000 shares of its authorized and unissued common stock par value \$3.50 per share (the "additional shares") pursuant to a CSW Employees Thrift Plan (the "Plan").

The Plan provides a means by which eligible employees of CSW and its direct and indirect subsidiaries, Central Power & Light Co., Central & South West Fuels, Inc., Central & South West Services, Inc., Public Service Company of Oklahoma, Transok Pipe Line Co., Southwestern Electric Power Co. and West Texas Utilities Co. (together, "CSW Subsidiaries"), may maintain a regular savings program and to provide additional benefits for such employees upon retirement. Under the Plan, the participating employers, i.e., the CSW Subsidiaries, make contributions of cash monthly, out of net income in an amount equal to 50 percent of the basic deposit made by each employee with less than 20 years of service and 75 percent of the basic deposit for those employees with 20 years of service or more.

The Plan permits each participating employee to make monthly payments to his plan account in an amount equal to 2 percent, 4 percent or 6 percent of his annual salary, and to make additional deposits in amounts not to exceed 4 percent of his annual salary for each year of service since he became a participant in the Plan.

The deposits by participating employees and the corresponding contributions by employers are paid monthly to the trustee under the Plan, the First National Bank in Dallas, for investment.

The trustee pursuant to written direction from each participating employee invests funds held in each such employee's Plan account. Presently

purchases of common stock of CSW by the trustee are made in the open market. It is herein proposed that such purchases will in the future be satisfied through the issuance and sale from time to time of the additional shares.

The purchase price at which any of the additional shares shall be sold to the Plan shall be the average of the closing prices of the common stock of CSW reported as New York Stock Exchange Composite for the 20 consecutive trading days ending with the last trading day of the month in respect of which the employer contributions and employee basic deposits being invested were made.

It is stated that the purpose of the proposed transaction is to provide CSW with an additional source of common equity capital at an economical cost.

CSW requests an exception from the competitive bidding requirements of rule 50 under the Act for the sale of the additional shares pursuant to paragraph (a)(5) of that rule.

It is stated that no State commission and no Federal commission, other than this Commission has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction are estimated at \$51,500 including \$38,500 in annual fees to the trustee of the Plan, and \$1,000 in legal fees.

Notice is further given that any interested person may, not later than October 23, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other actions as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28222 Filed 10-5-78; 8:45 am]

[8010-01]

[(File No. SR-NASD-78-11) Rel. No. 15196]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**Order Approving Proposed Rule Change**

SEPTEMBER 28, 1978.

On September 15, 1978, the National Association of Securities Dealers, Inc. ("NASD") 1735 K Street NW., Washington, D.C. 20006, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") and rule 19b-4 thereunder, copies of a proposal (the "Proposal") to reduce NASDAQ subscription rates for the fiscal year ending September 30, 1978, by refunding 10 percent of total billings for that fiscal year to NASDAQ subscribers. The refund will be made by NASDAQ, Inc., a wholly owned subsidiary of the NASD which owns and operates the NASDAQ system, and will be payable to NASDAQ level 1, 2, and 3 subscribers on a pro rata basis.

Notice of the Proposal, together with the terms of substance thereof, was given by publication of a Commission release (Securities Exchange Act Release No. 34-15172, September 19, 1978).

The Commission finds that the Proposal is consistent with the requirements of the Act and the applicable rules and regulations thereunder, and, in particular, the requirements of section 15A of the Act and the rules and regulations thereunder. In making that finding, the Commission has relied on the NASD's representation that it and NASDAQ, Inc. expect to have sufficient assets, independent of the amount included in the refund, to meet reasonably foreseeable expenses in connection with possible modifications or expansion of the NASDAQ system and fulfillment of self-regulatory obligations (including those relating to surveillance). Further, the Commission finds good cause for approving the Proposal prior to the 30th day after publication of notice of filing thereof. According to the NASD, unless all events necessary to establish the refund are accomplished prior to fiscal year end, September 30, 1978, there is a potential tax liability of up to 48 percent of the funds to be utilized for the refund should NASDAQ, Inc., be determined to be a taxable company.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the Proposal be, and it hereby is, approved.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc. 78-28223 Filed 10-5-78; 8:45 am]

[8010-01]

[(SR-NYSE-78-20) Rel. No. 152021]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 29, 1978.

On April 23, 1978, the New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, N.Y. 10005, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change (the "Proposal") to amend NYSE rule 345.15 to (a) allow registered representatives whose activities are limited solely to the solicitation of the sale or purchase of investment company securities and variable contracts, real estate securities, and direct participation programs to meet the NYSE's qualification standards by fulfilling specialized training and examination requirements either of the NYSE, or other self-regulatory organizations whose requirements are acceptable to the NYSE, and (b) to enable the NYSE to create specialized training and examination requirements for registered representative candidates engaged in limited activities other than those enumerated above. Notice of the Proposal together with its terms of substance was given by publication of a Commission release (Securities Exchange Act Release No. 14689, April 20, 1978) and by publication in the FEDERAL REGISTER (43 FR 19089, May 3, 1978).

On July 24, 1978, the NYSE submitted an amendment (the "Amendment") to the Proposal. The Amendment deleted paragraph 345.15(3) of the Proposal. That paragraph was the portion of the Proposal which would have enabled the NYSE to create specialized training and examination requirements for registered representative candidates engaged in limited activities other than the solicitation of the sale or purchase of investment company securities and variable contracts, real estate securities, and direct participation programs.

Notice of the Proposal, as amended (the "Amended Proposal") together with its terms of substance was given by publication of a Commission release (Securities Exchange Act Release No. 15072, August 16, 1978) and

by publication in the FEDERAL REGISTER (43 FR 37506, August 23, 1978). All written statements with respect to the Proposal or the Amended Proposal which were filed with the Commission and all written communications relating to the Proposal or the Amended Proposal between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the Amended Proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28224 Filed 10-5-78; 8:45 am]

[8010-01]

[Rel. No. 34-15194]

FAIR TREATMENT OF CUSTOMER ACCOUNTS

Notice to Broker Dealers

The Securities and Exchange Commission today expressed concern about certain practices engaged in by broker-dealers. During recent months the Commission has received investor complaints regarding:

(a) Issuance to customers of checks drawn on distant banks, a practice referred to as "remote checking";

(b) Retention of interest and dividend payments rather than disbursing such payments to customers promptly upon receipt, without affording customers adequate prior notice and a reasonable opportunity to elect either immediate or deferred payment;

(c) Imposition of increased commission rates without adequate prior notice;

(d) Imposition of custodial fees on "inactive" customer accounts without adequate prior notice; and

(e) Failure to transfer customer accounts promptly to another broker-dealer in response to customer requests.

REMOTE CHECKING

Many investors have complained that they are being deprived of the

prompt use of their funds by a device currently being used by some broker-dealers. That practice, commonly referred to as "remote checking," involves the issuance of checks drawn on banks located far away from customers in order to delay clearance of those checks and thereby to prolong a broker-dealer's use of its customers' funds. For example, some brokerage firms have implemented a policy of paying customers located east of the Mississippi River with checks drawn on west coast banks and paying customers located west of the Mississippi with checks drawn on east coast banks. In fact, certain broker-dealers have acknowledged that they have engaged in this practice specifically to prolong the firms' use of customers' funds.

The selection of a distant bank for the purpose of prolonging a broker-dealer's use of customer funds unfairly deprives customers of their immediate use of funds, is inconsistent with a broker-dealer's obligation to deal fairly with its customers¹ and is inconsistent with just and equitable principles of trade.² Such a purpose may be inferred from the circumstances surrounding the selection of a distant bank and is particularly evident in cases where a broker-dealer arranges its use of two or more disbursing banks with a view to paying customers in a particular region from a bank in a distant location.³

RETENTION OF INTEREST AND DIVIDEND PAYMENTS

It has been reported to the Commission that customers of several broker-dealers have experienced prolonged delays in receiving dividend and interest payments on securities held for them by broker-dealers. In particular, it appears that some broker-dealers have recently instituted the practice

¹See, e.g., *Opper v. Hancock Securities Corporation*, 250 F. Supp. 668 (S.D.N.Y.), *aff'd* 367 F. 2d 157 (2d Cir. 1966); *Arleen W. Hughes*, 27 S.E.C. 629 (1948), *aff'd sub nom. Hughes v. Securities and Exchange Comm'n*, 174 F. 2d 969 (D.C. Cir. 1949); *Charles Hughes & Co., Inc.*, 13 S.E.C. 676, *aff'd sub nom. Charles Hughes & Co., Inc. v. Securities and Exchange Comm'n*, 139 F. 2d 434 (2d Cir. 1943), *cert. denied*, 321 U.S. 786 (1944); *Duker & Duker*, 6 S.E.C. 386 (1939).

²See, e.g., art. III, sec. 1 of the National Association of Securities Dealers, Inc. bylaws, NASD Manual (CCH) par. 2151; art. XIV, sec. 6 of the New York Stock Exchange constitution, 2 New York Stock Exchange, Inc. Guide (CCH) par. 1656.

³The Commission recognizes, however, that it may be a desirable business practice for broker-dealers to limit the number of banks used for disbursing funds to customers, or indeed to use only a single bank for that purpose, so long as customers are not deprived of reasonably prompt access to their funds. As a result, some brokerage firm customers will be paid with checks drawn on out-of-State banks.

of disbursing dividend and interest payments monthly rather than promptly upon receipt of the funds, and have done so without notifying their customers in advance or offering them the alternative of immediate payment. While the Commission recognizes that some customers, if adequately informed, may decide to receive payments on a monthly basis, it believes that dividend and interest payments should not be deferred unless the customer has been so informed sufficiently in advance and has been given a reasonable opportunity to elect either immediate or deferred payment. Indeed, the imposition of a system of deferred payments without informed and timely notice is inconsistent with a broker-dealer's obligation to deal fairly with its customers and is inconsistent with just and equitable principles of trade.

IMPOSITION OF INCREASED COMMISSION RATES WITHOUT PRIOR NOTICE

One of the most common investor complaints since the abolition of fixed commission rates has been that broker-dealers raise their commission rates without adequate prior notice. In some egregious cases, investors have been charged commissions exceeding those quoted at the time they placed their orders. That practice is inconsistent with a broker-dealer's obligation to deal fairly with its customers and is inconsistent with its responsibilities under the Federal securities laws. In other cases, customers have placed orders with broker-dealers with which they have recently done business and have not been notified of commission rate increases until the transactions were confirmed. In those situations, the customer's reasonable expectations with respect to the commission rates to be charged based on his prior dealings with the broker-dealer have not been fulfilled. The imposition of an increased rate in that fashion is inappropriate and, the Commission believes, is inconsistent with a broker-dealer's duty to deal fairly with its customers and inconsistent with just and equitable principles of trade.

IMPOSITION OF CUSTODIAL FEES ON CUSTOMER ACCOUNTS WITHOUT PRIOR NOTICE

It has also been reported to the Commission that a number of broker-dealers have recently imposed charges for custodial services on inactive accounts without giving adequate advance notice to enable customers to consider closing or transferring their accounts. The Commission believes that this practice is also inconsistent with a broker-dealer's obligation to deal fairly with its customers and inconsistent with just and equitable principles of trade.

DELAY IN TRANSFERRING ACCOUNTS

Finally, a number of investors have complained that, when they attempt to transfer their accounts from one broker-dealer to another, the broker-dealer who has the account does not transfer it promptly. Those investors have encountered unusual delays, frequently accompanied by attempts to persuade them to allow their accounts to remain with the first broker-dealer. During such delays, customers may experience difficulty in liquidating securities positions held in those accounts unless the transactions are effected through the broker-dealers retaining the accounts.

The Commission recognizes that unusual circumstances may necessitate some delay in transferring a customer's account. Where such circumstances do exist, they should, of course, always be explained to the customer. Where unusual circumstances are not present, however, such delays are improper and are inconsistent with a broker-dealer's obligation to deal fairly with its customers and inconsistent with just and equitable principles of trade.

The Commission is particularly disturbed to discover that many of the practices described above appear not to be isolated occurrences, but instead to reflect established policies and practices of several of the Nation's leading broker-dealers. The Commission believes that action to correct these abuses is overdue and should be undertaken promptly by broker-dealers and self-regulatory organizations. In addition to violating standards of fair dealing, and the rules of various self-regulatory organizations requiring members to refrain from conduct that is inconsistent with just and equitable principles of trade, some instances of the practices described above appear to violate the antifraud provisions of the Federal securities laws. Customers of broker-dealers who believe they have been victims of these practices should write to the Office of Consumers Affairs, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Brokers and dealers should be fully aware that the Commission will take prompt enforcement action against individual firms and persons if such action is warranted.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 28, 1978.

[FR Doc. 78-28225 Filed 10-5-78; 8:45 am]

[8010-01]

[Release No. 34-15200; File No. SR-CBOE-78-27]

CHICAGO BOARD OPTIONS 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. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 11, 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 OF THE PROPOSED RULE CHANGE

PROCEDURE FOR ARBITRATION PROCEEDINGS

Rule 18.2(a)-(f) (no change).

INTERPRETATIONS AND POLICIES

.01 (No change.)

.02 *The Submission Agreements, Statement of Claim, Answer and related counter claim or third party claim shall be forwarded by the Secretary to the Arbitration Committee which shall determine to accept or reject such filings for arbitration. If jurisdiction is not so declined, the Arbitration Committee shall assign the matter to a panel of arbitrators selected in accordance with rule 18.3.*

PURPOSE OF PROPOSED RULE CHANGE

The proposed interpretation to rule 18.2 would allow for the Arbitration Committee to continue its policy of reserving discretion to deny jurisdiction over a proceeding submitted to them in the event any such submission would not be a proper matter to come before the committee. As a result of making recent amendments to this chapter, this policy of the Arbitration Committee was inadvertently omitted.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The basis under the Act for the proposed interpretation is section 6(b)(5) in that the exchange believes the proposed interpretation will enhance its ability to protect investors and the public interest and provide a fair procedure for the hearing of arbitration matters between members and the public.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

No comments were solicited or received on the proposed rule change.

BURDEN ON COMPETITION

The exchange does not believe that the proposed rule change will impose any burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission 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 October 27, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 29, 1978.

[FR Doc. 78-28226 Filed 10-5-78; 8:45 am]

[8010-01]

[Release No. 34-15201; File No. SR-MSE-78-17]

MIDWEST 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. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 5, 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 OF THE PROPOSED RULE CHANGE

Brackets ([]) indicate deletions; *Italics* indicate new material

ARTICLE VIII

Arbitration of Small Claims

Rule 23. (a) Any dispute, claim or controversy, arising between a public customer(s) and a registered person, member, principal partner, principal stockholder, officer, director or member organization, involving a dollar amount not exceeding \$2500.00, exclusive of attendant costs and interest, may upon demand of the customer(s) or by written consent of the parties be arbitrated as hereinafter provided.

(b) The claimant shall file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Statement of Claim of the controversy in dispute, together with documents in support of the claim. The Statement of Claim shall specify the relevant facts, the remedies sought and whether or not a hearing is requested.

(c) The Claimant shall pay the sum of \$15.00 upon filing of the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.

(d) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. The Respondent(s) shall within twenty (20) calendar days from receipt of service file with the Director of Arbitration one (1) executed Submission Agreement and one (1) copy of the Respondent's answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related Third Party Claim the Respondent(s) may have against the Claimant or any other person. A related Counterclaim is defined as related to a customer's account or accounts with an Exchange member organization. If the Respondent(s) has interposed a Third Party Claim, the Director of Arbitration shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such Third Party who shall respond in the manner herein provided for response to the Claim. If the Respondent(s) files a related Counterclaim exceeding \$2500.00, the arbitrator may refer the Claim, Counterclaim and/or Third Party Claim, if any, to a panel of three (3) or five (5) arbitrators or, he may dismiss the Counterclaim and/or Third Party Claim without prejudice to the Counterclaimant(s) and/or Third

Party Claimant(s) pursuing the Counterclaim and/or Third Party Claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed \$15.00.

(e) The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, Third Party Claim or other responsive pleading, if any. The Claimant shall within ten (10) calendar days file a Reply to any Counterclaim with the Director of Arbitration who will serve a copy of the Reply on the Respondent(s). In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.

(f) The dispute, claim or controversy shall be submitted to a single arbitrator knowledgeable in the securities industry selected by the Director of Arbitration. Unless the public customer demands or consents to a hearing, or the arbitrator(s) calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Director of Arbitration.

(g) The Director of Arbitration may grant extensions of time to file any pleading upon a showing of good cause.

(h) The arbitrator shall be authorized to require the submission of further documentary evidence as he in his sole discretion deems advisable.

(i) The arbitrator may, in his sole discretion, request that the Director of Arbitration appoint two (2) additional arbitrators so that the matter in controversy will be decided by three (3) arbitrators.

(j) In any case where there is more than one (1) Arbitrator, the majority will be public arbitrators.

STATEMENTS OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF PROPOSED RULE CHANGE

The proposed rule change was drafted by the Securities Industry Conference on Arbitration in answer to an SEC directive to the securities industry to establish a uniform system for the resolution of customers' small claims against brokers.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The proposed rule change seeks to remove impediments to the establishment of a national market system and seeks to protect the public investors by creating a uniform rule for the resolution of customer disputes involving small claims.

**COMMENTS RECEIVED FROM MEMBERS,
PARTICIPANTS, OR OTHERS ON PRO-
POSED RULE CHANGE**

Comments have neither been solicited nor received.

BURDEN ON COMPETITION

The Midwest Stock Exchange, Inc. believes that no burdens have been placed on competition.

Within 35 days of the date of publication of this notice in the **FEDERAL REGISTER**, 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 six 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 by October 27, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 29, 1978.

[FR Doc. 78-28227 Filed 10-5-78; 8:45 am]

[8010-01]

[Release No. 34-15199; File No. SR-PSD-78-4]

PACIFIC SECURITIES DEPOSITORY TRUST CO.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 11, 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
OF THE PROPOSED RULE CHANGE**

The proposed rule change, as amended, involves the implementation of a third party delivery service in the interface between Pacific Securities Depository Trust Co. ("PSDTC") and the Depository Trust Co. ("DTC").

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to implement a third party delivery service in the interface between PSDTC and DTC. This third party delivery service permits any participant in one depository to deliver securities to, or receive securities from, any participant in the other depository free (without money settlement) or for payment. Previously, only a participant affiliated with both depositories could use the interface and then only to move positions between its accounts in PSDTC and DTC.

The proposed rule change would carry out the purposes of section 17A of the Securities Exchange Act of 1934 by facilitating the prompt and accurate clearance and settlement of securities transactions for which PSDTC is responsible in that the proposed rule change eliminates the need for dual participants in PSDTC and DTC to initiate multiple book-entry movements with attendant charges to effect interdepository movements and the proposed rule change enables sole participants of one depository to effect book-entry deliveries to sole participants of the other depository, which would otherwise necessitate physical deliveries by intercity securities shipments.

PSDTC announced in its newsletter of November 1976 and March 1977 the progress of the interface with DTC. The final stage, full interface capability, including third party delivery service was announced to all participants by PSDTC member information notice attached as exhibit 2 to PSDTC's filing on form 19b-4A, file No. SR-PSD-78-1.

PSDTC perceives no burden on competition by reason of the proposed rule change.

Within 35 days of the date of publication of this notice in the **FEDERAL REGISTER**, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer periods 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 six 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 above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by October 27, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 29, 1978.

[FR Doc. 78-28228 Filed 10-5-78; 8:45 am]

[4710-10]

DEPARTMENT OF STATE

[Public Notice CM-8/1141]

**ADVISORY COMMITTEE ON THE LAW OF THE
SEA**

Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) as amended by Pub. L. 94-409 section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed sessions on Monday, October 30, and in both open and closed sessions on Tuesday, October 31, 1978. The open session of the meeting will convene Tuesday at 2:30 p.m., in the Loy Henderson Conference Room, U.S. Department of State, 21st and C Streets NW., Washington, D.C.

The purpose of the closed meeting is to discuss specific conference issues and formal planning and policy preparations for the U.S. Delegation to the Eighth Session of the Third United Nations Conference on the Law of the Sea to be held in Geneva beginning March 19, 1979. During these closed sessions, documents classified under the provisions of Executive Order 11652 will be discussed.

These documents relate to the issues which the United States will be negotiating at the Conference. The docu-

ments are exempt under 5 U.S.C. 552(b)(1), and are required to be withheld from disclosure in the public interest.

The issues cover such subjects as freedom of navigation on the high seas and in international straits, national security interests, the nature of a deep seabeds mining regime and proposed deep seabed mining legislation, the breadth of the continental margin, the juridical status of the economic zone, fisheries, vessel source pollution, scientific research, dispute settlement, and other related topics involving U.S. national security matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize the chances of obtaining a timely and satisfactory Law of the Sea Treaty.

The open session of the Advisory Committee meeting will discuss all principal agenda issues to be considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines, and other public groups. As such, it will comprehensively review the proposals which will come before the Conference.

At the open session, beginning at 2:30 p.m., October 31, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Mr. Thomas Okada by October 24 and provide their name and affiliation to facilitate their attendance. Mr. Okada's telephone number is (area code 202) 632-9616.

ALAN BERLIND,
Director, Office of the
Law of the Sea Negotiations.

[FR Doc. 78-28265 Filed 10-5-78; 8:45 am]

[4710-02]

Agency for International Development

ZAMBIA

Determination and Waiver Pursuant to Section 533(c)(2) of the Foreign Assistance Act of 1961, as Amended

The Agency for International Development has proposed a grant to Africare in the amount of \$1 million. The primary purpose of the grant is to undertake a program of assistance to civilian refugees in the northern Zambian settlement of Meheba. The program is designed to assist the refugees

in becoming agriculturally self-sufficient; to provide for more of their basic needs through sale of surplus farm products; and to assist in developing a local capability to sustain improved environmental health conditions and improved health care delivery. An Africare representative stationed in Lusaka will provide liaison with the Government of Zambia and will place major emphasis on developing additional refugee assistance activities.

These refugees at Meheba are mainly civilian Angolans who have settled in the northwestern province. They are quite apart from refugees who enter Zambia to join liberation movements who go to camps in the southern part of the country. The latter group is the Ministry of Defense's responsibility. The civilians are the responsibility of the Ministry of Home Affairs (the Commissioner for Refugees).

Funding for the proposed grant will be drawn from the southern African special requirements funds (FAA section 533).

FAA section 533(c)(2) prohibits utilization of southern African special requirements funds for Zambia unless it is determined that such assistance would further foreign policy interests of the United States.

Zambia occupies a key geographic and political position in southern Africa. The number of refugees entering Zambia has increased dramatically as a result of turbulence in neighboring states. Considerable emphasis has been placed in the education of thousands of civilian school-age children. However, the Government of Zambia cannot sufficiently meet the financial demands of much needed classroom extensions, additional teachers, and housing.

U.S. foreign policy in southern Africa is to support self-determination, majority rule, equal rights, and human dignity for all people of the region. It is U.S. policy to assist the region in establishing foundations for economic and social growth and political stability.

The Government of Zambia's educational and self-help objectives for its civilian refugees is extremely important in contributing to the economic and social stability of southern Africa. These objectives reflect basic concerns and objectives of the United States.

The proposed grant to Africare will have a direct bearing on helping the Zambian Government meet its goals of providing education for refugee children and helping the refugees to become agriculturally self-sufficient and to maintain better health conditions.

Pursuant to the authority set forth in section 533(c)(2) of the Foreign As-

sistance Act of 1961, as amended, and delegated to me by Executive Order 10973 and Department of State delegation of authority 104, and for the reasons stated above, I hereby determine that it would further the foreign policy interests of the United States to provide assistance to Zambia from the southern African special requirements funds and hereby waive the prohibition set forth in the above cited provision of law with respect to Zambia.

This determination and waiver shall be reported to the Congress and shall be published in the FEDERAL REGISTER.

Dated: September 22, 1978.

JOHN J. GILLIGAN,
Administrator.

[FR Doc. 78-28266 Filed 10-5-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[L.C.C. Order No. 73, under Revised Service Order No. 1252]

ALTON & SOUTHERN RAILWAY CO., ET AL.

Rerouting Traffic

In the matter of the Alton & Southern Railway Co., Burlington Northern Inc., the Baltimore and Ohio Railroad Co., Chicago & North Western Transportation Co., Chicago, Rock Island & Pacific Railroad Co., Consolidated Rail Corp., Illinois Central Gulf Railroad Co., Illinois Terminal Railroad Co., Louisville & Nashville Railroad Co., Manufacturers Railway Co., Missouri-Kansas-Texas Railroad Co., Missouri Pacific Railroad Co., Norfolk & Western Railway Co., St. Louis-San Francisco Railway Co., St. Louis Southwestern Railway Co., Southern Railway Co., Terminal Railroad Association of St. Louis.

In the opinion of Joel E. Burns, agent, the Terminal Railroad Association of St. Louis is unable to transport traffic over its lines because of a strike of certain of its employees.

It is ordered, That

(a) The Terminal Railroad Association of St. Louis being unable to transport traffic over its line because of a strike of certain of its employees, that line and its connections, are hereby authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) Concurrence of receiving roads to be obtained. The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is

to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of this Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 10:30 a.m., September 22, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1978, unless otherwise modified, changed, or suspended.

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. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 22, 1978.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-28285 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1252, I.C.C. Order No. 75]

ATCHISON, TOPEKA & SANTA FE RAILWAY
CO. AND FERROCARRIL DE CHIHUAHUA AL
PACIFICO, S.A. DE C.V.

Rerouting of Traffic

To all railroads:

In the opinion of Robert S. Turkington, Agent, The Atchison, Topeka & Santa Fe Railway Company (ATSF) and the Ferrocarril de Chihuahua al

Pacifico, S.A. de C.V. (CHP) are unable to interchange traffic routed via Presidio, Tex., and Ojinago, Chihuahua, Mex., because of damage to the bridge connecting these points.

It is ordered, That

(a) *Rerouting traffic.* The ATSF and the CHP, being unable to interchange traffic routed via Presidio, Tex., and Ojinago, Chihuahua, Mex., because of the damage to the bridge connecting these points, are authorized to reroute or divert such traffic over any available route to expedite the movement, regardless of the routing designated on the waybill. The billing covering all such cars rerouted or diverted shall carry a reference to this order as authority for the rerouting. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed, to the extent that these rates apply to movements within the United States.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 5 p.m., September 27, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 15, 1978, unless otherwise modified, changed, or suspended.

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. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 27, 1978.

INTERSTATE COMMERCE
COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28295 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1332, Exception No. 5 under
Section (a), Paragraph (1), Part (v)]

BURLINGTON NORTHERN INC.

Exception

Decided: September 22, 1978.

By the Board:

The Western Pacific Railroad Co. (WP) has purchased one-hundred (100) new boxcars which will be delivered to Burlington Northern Inc. (BN), at Portland, Oreg., for movement to the WP. WP has allowed BN to load these cars on the west coast for movement to the WP. Reduced loadings of these cars on the BN to destinations as directed by WP means the BN will hold some of the cars beyond the 60 hours permitted in section (a)(2)(ii) of this order prior to placing of cars for loading.

Order. Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(v) of Revised Service Order No. 1332, Burlington Northern Inc., is authorized to assemble and hold up to one-hundred (100) new Western Pacific Railroad Co. (WP) boxcars for loading as directed by WP, regardless of the provisions of section (a)(2)(ii) of this order.

These cars shall become fully subject to all provisions of Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective: September 22, 1978.

Expires: October 31, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-28286 Filed 10-5-78; 8:45 am]

[7035-01]

[Revised S.O. 1252, Rev. I.C.C. Order 65, Amdt. No. 5]

CP RAIL AND DETROIT, TOLEDO & Ironton RAILROAD CO.

Rerouting of Traffic

To All Railroads:

Upon further consideration of Revised I.C.C. Order No. 65 (CP Rail and Detroit, Toledo & Ironton Railroad Co.), and good cause appearing therefor:

It is ordered, That

Revised I.C.C. Order No. 65 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 15, 1978, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment 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. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 28, 1978.

INTERSTATE COMMERCE
COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28294 Filed 10-5-78; 8:45 am]

[7035-01]

[Second Rev. S.O. 1332; exception No. 1 under Section (a), Paragraph (1), Part (v)]

CAR SERVICE RULES

Exception

Decided: September 29, 1978.

To all railroads:

By the board.

the following exceptions to Revised Service Order No. 1332, issued to various railroads, are adopted in their entirety as exceptions to Second Revised Service Order No. 1332.

Exception No. 3 issued September 11, 1978.

Exception No. 4 issued September 20, 1978.

Exception No. 5 issued September 22, 1978.

Exception No. 6 issued September 27, 1978.

Exception No. 7 issued September 27, 1978.

Exceptions not listed above are no longer in effect.

Authority Section (a), Paragraph (1), Part (v) of Second Revised Service Order No. 1332.

Effective: September 30, 1978.

Expires: November 30, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-28298 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1332; Exception No. 6 Under Section (a), Paragraph (1), Part (v)]

CAR SERVICE RULES

Exception

Decided: September 27, 1978.

To: Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

By the Board.

The Western Pacific Railroad Co. (WP) has purchased one-hundred (100) new boxcars which will be delivered to Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (MILW) at Portland, Oreg., for movement to the WP. WP has allowed MILW to load these cars on the west coast for movement to the WP. Reduced loadings of these cars on the MILW to destinations as directed by WP means the MILW will hold some of the cars beyond the 60 hours permitted in section (a)(2)(ii) of this order prior to placing of cars for loading.

Order. Pursuant to the authority vested in the Railroad Service Board by section (a)(1)(v) of Revised Service Order No. 1332, Chicago, Milwaukee, St. Paul & Pacific Railroad Co., is authorized to assemble and hold up to one-hundred (100) new Western Pacific Railroad Co. (WP) boxcars for loading as directed by WP, regardless of the provisions of section (a)(2)(ii) of this order.

These cars shall become fully subject to all provisions of Revised Service Order No. 1332 when loading is completed and instructions for forwarding are received from the shipper.

Effective: September 27, 1978.

Expires: October 31, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-28299 Filed 10-5-78; 8:45 am]

[7035-01]

[Ex Parte No. 241, Rule 19, 50th Revised Exemption No. 901]

MANDATORY CAR SERVICE RULES

Exception

To all railroads:

It appearing. That certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars; and

It further appearing. That there are substantial shortages of 50-ft. plain boxcars throughout the country; that the carriers identified in this exemption by the symbol (%) have 150% or more of their ownership of these cars on their lines; and that such a disproportionate use of the total supply of such cars causes shippers served by other lines to be deprived of their proper share of such cars.

It is ordered. That, pursuant to the authority vested in me by Car Service rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC-RER No. 408, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Aberdeen & Rockfish Railroad Co.
Reporting Marks: AR
Atlanta & Saint Andrews Bay Railway Co.
Reporting Marks: ASAB
%The Baltimore & Ohio Railroad Co.
Reporting Marks: BO
%Bessemer & Lake Erie Railroad Co.
Reporting Marks: BLE
Camino, Placerville & Lake Tahoe Railroad Co.
Reporting Marks: CPLT
%The Chesapeake & Ohio Railway Co.
Reporting Marks: CO-PM
XXX

City of Prineville
Reporting Marks: COP
The Clarendon & Pittsford Railroad Co.
Reporting Marks: CLP
%Consolidated Rail Corp.
Reporting Marks: CR-DLW-EL-ERIE-LV-NH-NYC-P&E-PAE-PC-PCA-PRR-RDG-TOC
%Delaware & Hudson Railway Co.
Reporting Marks: DH
Duluth, Missabe & Iron Range Railway Co.
Reporting Marks: DMIR
%Florida East Coast Railway Co.
Reporting Marks: FEC
Genesee & Wyoming Railroad Co.
Reporting Marks: GNWR

% Carriers having 150% or more of ownership on lines.

XXX Chicago & Illinois Midland Railway Co., Chicago, Rock Island & Pacific Railroad Co. and Western Maryland Railway Co. eliminated.

%Grand Trunk Western Railroad Co.
Reporting Marks: GTW
Greenville & Northern Railway Co.
Reporting Marks: GRN
Lake Erie, Franklin & Clarion Railroad Co.
Reporting Marks: LEF
Lenawee County Railroad Co., Inc.
Reporting Marks: LCRC
Louisiana Midland Railway Co.
Reporting Marks: LOAM
Louisville & Wadley Railway Co.
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC
Middletown & New Jersey Railway Co., Inc.
Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad Co.
Reporting Marks: BKTU-MKT
New Orleans Public Belt Railroad
Reporting Marks: NOPB
%Norfolk & Western Railway Co.
Reporting Marks: ACY-N&W-NKP-WAB
Pearl River Valley Railroad Co.
Reporting Marks: PRV
Peninsula Terminal Co.
Reporting Marks: PT
Providence & Worcester Co.
Reporting Marks: PW
Raritan River Rail Road Co.
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Lawrence Railroad
Reporting Marks: NSL
Sierra Railroad Co.
Reporting Marks: SERA
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
Tidewater Southern Railway Co.
Reporting Marks: TS
Toledo, Peoria & Western Railroad Co.
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Co.
Reporting Marks: WCTR
%Western Railway of Alabama
Reporting Marks: WA
Youngstown & Southern Railway Co.
Reporting Marks: YS
Yreka Western Railroad Co.
Reporting Marks: YW

Effective October 1, 1978, and continuing in until further order of this Commission.

Issued at Washington, D.C., September 26, 1978.

INTERSTATE COMMERCE
COMMISSION,

ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28297 filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1332; Exception No. 7 Under Section (a), Paragraph (1), Part (v)]

CAR SERVICE RULES

Exception

Decided: September 27, 1978.

To all railroads:

By the Board.

Because of a series of work stoppages by their employees, numerous railroads are unable to move freight cars within the time limits established by Service Order No. 1332.

Order. Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Revised Service Order No. 1332, the provisions of Service Order No. 1332 are suspended at any point or points at which a work stoppage of employees occurs effective with the time such work stoppage occurs and expiring at 11:59 p.m., of the second day following the day on which the employees return to duty.

Effective: September 27, 1978.

Expires: October 6, 1978.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 78-28300 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1252; Revised ICC Order No. 69; Amdt. No. 1]

CHESAPEAKE & OHIO RAILWAY CO.

Rerouting of Traffic

Upon further consideration of Revised ICC Order No. 69 (The Chesapeake & Ohio Railway Co.), and good cause appearing therefor:

It is ordered,

Revised ICC Order No. 69 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1978, unless otherwise modified, changed, or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment 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. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C. September 27, 1978.

INTERSTATE COMMERCE
COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28290 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. 1252, ICC Order No. 62, Amdt. No. 5]

CHESAPEAKE & OHIO RAILWAY CO.

Rerouting of Traffic

To all railroads:

Upon further consideration of ICC Order No. 62 (The Chesapeake & Ohio Railway Co.) and good cause appearing therefor:

It is ordered,

ICC Order No. 62 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 15, 1978, unless otherwise modified, changed, or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment 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. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 28, 1978.

INTERSTATE COMMERCE
COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28292 Filed 10-5-78; 8:45 am]

[7035-01]

[No. MC-126118 (Sub-No. 36), et al.]

CRETE CARRIER CORP.

Decision

In the matter of Crete Carrier Corp., Paper Products Conversion (No. MC-126118 (Sub-No. 36)), Crete Carrier Corp., Extension—Taylorville, IL, (No. MC-128375 (Sub-No. 149)), and Crete Carrier Corp., Extension—St. Francisville, LA (Lincoln, NE), (No. MC-128375 (Sub-No. 149)).

Decided: September 27, 1978.

Applicant is presently both a common and contract carrier. The title proceeding is one of five applications seeking conversion to certificates of public convenience and necessity of applicant's outstanding contract carrier authority. The other four "conversion" applications have been the subject of favorable final decisions. The title proceeding—which seeks to convert permits authorizing the transportation of paper and paper products for Western Paper Co., a division of Hamermill Paper Co.—is before us on ap-

plicant's exceptions to the Administrative Law Judge's recommended partial denial.

The embraced proceedings were filed as contract carrier applications seeking extension of authority to serve Western. They were initially processed under the modified procedure, but subsequently assigned along with the title proceeding for oral hearing to insure consistent disposition with respect to the status of the proposed operations as either contract or common carriage. The Administrative Law Judge recommended that common carrier authority be granted in these proceedings, subject to certain restrictions. No exceptions were filed in the embraced proceedings, but they will be reopened on our own motion.

The Administrative Law Judge's statement of facts, as supplemented and modified here, is correct and we adopt it as our own. We disagree with the recommended partial denial of the title proceeding and with the imposition of "for the account of" restrictions in each proceeding. We find that the public convenience and necessity require the operations proposed by applicant in each proceeding. Provision is made for publication in the FEDERAL REGISTER of the authority granted.

ORAL HEARING AND STIPULATIONS

The three proceedings were orally heard at the same time. Appearing in opposition were motor common carriers Michigan & Nebraska Transit Co., Inc., National Refrigerated Transport, Inc., and WNI, Inc. (opposing only the conversion proceeding), as well as Trans-National Truck, Inc., and Schneider Transport, Inc. (opposing both the conversion proceeding and the Sub-No. 148 application). The Sub-No. 149 application is unopposed.

By stipulation, it was agreed that (1) Schneider and affiliates derive about 60 percent of their revenue from paper and paper products traffic, (2) at least \$8.5 million in revenue would be subject to diversion upon an unrestricted grant of the conversion application, (3) such diversion would " * * * so adversely affect Schneider and affiliates that it would materially diminish their ability to serve its [sic] shipping public * * * ", (4) the imposition of appropriate interchange and "for the account of" restrictions was necessary adequately to protect protestants' interests, and (5) applicant expressly acknowledges that failure to impose a restriction of the type published in the Federal Register would necessitate reopening and rehearing the conversion proceeding. The restrictions referred to above were likewise proposed for the Sub-No. 148 application. Protestant Michigan & Nebraska's motion to intervene in that proceeding was granted. Documentary evidence sub-

mitted by Michigan & Nebraska was stipulated, as well.

The Administrative Law Judge recommended that the embraced applications be granted and that the conversion application be granted, in part. He recommended imposition of a "for the account of" restriction in each proceeding. The administrative Law Judge recommended denying authority to serve destinations in Alabama, Colorado, Idaho, Kentucky, Minnesota, Mississippi, Montana, Nevada, New Mexico, South Dakota, and Wyoming, reasoning that " * * * extremely limited traffic moving to such destinations over a substantial period of time * * * " rendered the authority dormant, notwithstanding shipper evidence of future need. A favorable recommendation on traffic moving from Hoquiam, WA, (except to Wyoming) was based on evidence of Hammermill traffic moving to that area, as well as the asserted need for coloaded Hammermill and Western traffic at the involved origin. No explanation is given for the recommended denial of authority to serve Kansas City, MO.

APPLICANT'S EXCEPTIONS

As the Administrative Law Judge recommended granting both embraced applications, applicant has excepted only to the recommended partial denial of the title conversion proceeding. The Administrative Law Judge assertedly erred in not according proper weight to (1) evidence establishing the substantiality of applicant's past operations for Western, (2) evidence of need for service beyond the scope of applicant's pertinent permits, (3) evidence of future need, and (4) the effect which a grant would have upon Hammermill's private carriage operations.

"FOR THE ACCOUNT OF" RESTRICTIONS

Restrictions on operating authority should generally be imposed only when consistent with the public interest and with effective and efficient regulation. *Fox-Smythe Transportation Co. Extension—Oklahoma*, 106 MCC 1, 9 (1967). Section 203(a)(14) of the Interstate Commerce Act defines the term "common carrier by motor vehicle" as "any person which holds itself out to the general public to engage in the transportation by motor vehicle in interstate of foreign commerce of passengers or property * * * for compensation * * * " (Emphasis supplied.) The proposed "for the account of" restrictions would preclude the rendition of service to the general public. As such, the restrictions are repugnant to the concept of common

¹The Administrative Law Judge notes that "virtually no" Western traffic is shown moving from Hoquiam save three shipments to Utah.

carriage and will not be imposed. Compare *North Star Transport, Inc., Extension—Lumber*, 128 MCC 803 (1978).

PUBLIC CONVENIENCE AND NECESSITY

Since we will not impose a restriction which is clearly contrary to the statutory definition of common carriage, we will determine whether the record supports a grant of common carrier authority in each proceeding.

THE CONVERSION PROCEEDING

A public need is shown for the proposed service. Western's use of applicant on traffic moving to points in Mississippi, Alabama, Minnesota, and South Dakota assertedly has increased. Applicant's traffic exhibits (7 through 12) do not substantiate this claim, but applicant asserts that these exhibits do not reflect the full extent of its operations for Western. The record establishes that applicant transported Western traffic to points in Kentucky and Montana. Representative destinations in Minnesota, Mississippi, Montana, and Kentucky are listed, as well as representative multiple delivery shipments involving stopoffs at Mississippi, Minnesota, North Dakota, and Alabama points. Applicant's traffic abstracts establish that multiple deliveries to such points have in fact been made.

Western maintains branch "houses" where stocks are kept from which to serve customers at North Kansas City, MO (here Western maintains, as well, an office under the trade name Midwestern Paper Company), Fargo, ND, Salt Lake City, UT, and Billings, MT, among other places.

Substantial Hammermill traffic moves in private carriage from various involved origins to points in Alabama, Colorado, Kentucky, Minnesota, Mississippi, Montana, New Mexico, and South Dakota. Hammermill also has customers in Utah, Idaho, Nevada and Wyoming. Hammermill seeks to supplant its extensive private operations east of the Mississippi River with applicant's service, coloaded traffic of its several divisions or filing out loads at various origins. The Administrative Law Judge appears to have accorded such evidence little weight, apparently reasoning that evidence of need for service beyond the scope of applicant's pertinent permits is irrelevant. We disagree. Conversion of permits to certificates endows the carrier with capabilities and obligations it would not possess as a contract carrier. Evidence of a present or future public need for services not performed under outstanding permits but within the scope of the conversion application is relevant to the determination of public convenience and necessity. See *Refrigerated Foods, Inc., Ext.—Conversion*, 125 MCC 887, 894-5 (1976) and *Contin-*

tal Contract Car. Corp., Conversion Applic., 129 MCC 554, 560 (1978).

The Administrative Law Judge appears, as well, to have accorded little weight to evidence of future need, reasoning that there was "no probative evidence" of such need. We again disagree. Future need for a proposed service may be established by a showing that the supporting shipper is actually soliciting business or has some definite plan upon which it can reasonably be found that the proposed service will be used in the foreseeable future. *Gibbon Extension—Liquid Petroleum Wax*, 67 MCC 252, 253 (1956). Though it must have some foundation, proof of future need will be, in the nature of things, less definite than proof of existing need. *Miller Transporters Extension—Urea*, 84 MCC 684, 687 (1961).

Shipper lists representative multiple delivery shipments. Significantly, applicant's traffic abstracts substantiate this testimony: Five of nine shipments moving to Mississippi points involved multiple stops at points in Tennessee; all shipments to Minnesota points involved multiple stops, chiefly at points in North Dakota; one shipment from Mobile, AL, to Fargo, ND, involved a stop at Lincoln, NE—the Administrative Law Judge recommended denial of authority to serve Mississippi and Minnesota points, as well as points in North Dakota from Mobile, AL. We fail to see any rational basis for denial of authority to serve contiguous States on these facts.

Michigan & Nebraska, unlike Schneider and affiliates, holds limited territorial authority which would preclude it from rendering the complete service contemplated in the proposed operation. Though some diversion of traffic may occur, we are convinced that the proposed operation will serve a useful public purpose as detailed above. Though this purpose might conceivably be served as well by Schneider and affiliates, the present record does not warrant such a finding.

THE EMBRACED PROCEEDINGS

With regard to the embraced Sub-No. 148 application, Schneider is authorized to transport paper and paper products from Taylorville, IL, to points in Iowa. By interlining with its affiliate Trans-National Truck, Inc., at Oskaloosa, IA, Schneider can serve points in Kansas (except 16 named major points) and Nebraska as well. Schneider and affiliate hold no pertinent authority to serve points in Missouri. Michigan & Nebraska holds no authority to originate the involved traffic. Protestants' chief interest appears to be in protecting their operations from additional competition—not in serving Western, and, hence,

the "general public." Schneider and affiliate's inability to meet Western's expressed need for multiple deliveries is apparent. Michigan & Nebraska's interests will be protected by imposition of an appropriate "originating at" restriction.

The Sub-No. 149 application is unopposed and the evidence warrants a grant of the authority sought.

Service will be authorized as set forth in the appendix. While the "for the account of" restrictions must be eliminated, each grant of authority will be subject to an appropriate restriction against interlining, as requested. Cf. *Ferree Moving and Storage, Inc., Conversion Applic.*, 110 MCC 375, 379 (1969), *Bass Transp. Co., Inc., Ext.—St. Louis, Mo.*, 125 MCC 233, 256 (1976) and *Continental, supra*, at page 562.

REPUBLICATION

Since the authority conditionally granted in this decision will not include "for the account of" restrictions, we will require republication in the FEDERAL REGISTER. Within 30 days of the date of publication of this notice any person prejudiced by this deletion may file a petition to intervene setting forth in detail the precise manner in which it has been prejudiced by deletion of the restrictions. If parties already of record wish to file additional evidence they should advise the Commission of their desire to do so within the same 30 day period. At the end of the 30 day period disposition will be made of any petitions to intervene and an appropriate decision will be entered providing for submission of additional evidence by the protestants and intervenors.

We find:

The present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. Appropriate certificates should be granted, subject to the cancellation and republication conditions set forth in the appendix. This decision does not significantly affect the quality of the human environment.

It is ordered, That the proceedings in No. MC-128375 (Sub-Nos. 148 and 149) are, on our own motion, reopened for reconsideration on the present record.

By the Commission, Division 2, Commissioners Stafford, Gresham, and Christian. Commissioner Gresham dissenting to the extent that the major-

ity requires further delay through notice and comment.

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

APPENDIX

AUTHORITY CONDITIONALLY GRANTED

I. No. MC-126118 (Sub-No. 36).

Paper and paper products

(1) From Erie and Lock Haven, PA, Indianapolis, IN, Oswego, NY, and points in Michigan, Ohio and Wisconsin to points in Arkansas, Florida, Iowa, Kansas, Louisiana, Missouri, Nebraska, North Dakota, Oklahoma, Tennessee, Texas, Utah, Alabama, Colorado, Idaho, Kentucky, Minnesota, Mississippi, Montana, Nevada, New Mexico, South Dakota, and Wyoming.

(2) From Mobile, AL, to points in Arkansas, Iowa, Kansas, Missouri, Nebraska, Oklahoma, Montana, Idaho, Nevada, Utah, Wyoming, North Dakota, South Dakota, Minnesota, Colorado, and New Mexico.

(3) From Hoquiam, WA, to points in Idaho, Montana, Nevada, Utah, and Wyoming.

(4) From Pinebluff, AR, to Kansas City, MO, and points in Nebraska.

(5) From Portland, OR, to points in Nebraska.

II. No. MC-128375 (Sub-No. 148) [To be issued under No. MC-126118 and an appropriate subnumber.]

Paper and paper products

From Taylorville, IL, to points in Iowa, Kansas, Missouri and Nebraska.

III. No. MC-128375 (Sub-No. 149) [To be issued under No. MC-126118 and an appropriate subnumber.]

Paper and paper products

From St. Francisville, LA, to Memphis, TN, and points in Iowa, Kansas, Missouri, and Nebraska.

RESTRICTION

The authority granted in all three proceedings is restricted to traffic originating at the named origins and destined to the named destinations authorized above.

SPECIAL CONDITION FOR ISSUANCE OF CERTIFICATES IN I, II, AND III

Issuance of a certificate in each proceeding is subject to (1) coincidental cancellation of the carrier's outstanding permits in No. MC-128375 and subnumbers and (2) republication in the FEDERAL REGISTER of a notice of the authority actually granted.

[FR Doc. 78-28302 Filed 10-5-78; 8:45 am]

[7035-01]

[Revised S.O. 1252; Revised I.C.C. Order No. 68; Amdt. No. 11]

FORT WORTH & DENVER RAILWAY CO.

Rerouting of Traffic

To all railroads

Upon further consideration of Revised ICC Order No. 68 (Fort Worth & Denver Railway Co.), and good cause appearing therefor:

It is ordered,

Revised ICC Order No. 68 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1978, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment 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. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C. September 28, 1978.

INTERSTATE COMMERCE
COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28296 Filed 10-5-78; 8:45 am]

[7035-01]

[Ex Parte No. 241, Rule 19, Exemption No. 152]

MANDATORY CAR SERVICE RULES

Exemption

To all railroads

It appearing, That there are certain railroads which are inoperable due to a strike of certain of the operating employees. Many of the railroads are unable to move rail cars in compliance with Car Service Rules 1 and 2 because of the strike, thus depriving those carriers still operating of the return of their cars. Compliance with Car Service Rules prevents the timely assembly and use of such cars as are available on the lines presently operating.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, because of a strike on certain railroads of certain operating employees, Car Service Rules 1 and 2 are suspended.

Effective: September 26, 1978.

Issued at Washington, D.C., September 26, 1978.

INTERSTATE COMMERCE
COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28288 Filed 10-5-78; 8:45 am]

[7035-01]

[Ex Parte No. 241, Rule 19, Exemption No. 152]

MANDATORY CAR SERVICE RULES

Exemption

To all railroads

It appearing, That there are certain railroads which are inoperable due to a strike of certain of the operating employees. Many of the railroads are unable to move rail cars in compliance with Car Service Rules 1 and 2 because of the strike, thus depriving those carriers still operating of the return of their cars. Compliance with Car Service Rules prevents the timely assembly and use of such cars as are available on the lines presently operating.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, because of a strike on certain railroads of certain operating employees, Car Service Rules 1 and 2 are suspended as to cars owned by all except the following railroads:

Bangor & Aroostook Railroad Co. (BAR)
Maine Central Railroad Co. (MeC)

Freight Cars bearing reporting marks assigned to the BAR and to the MeC shall remain subject to all provisions of Car Service Rules 1 and 2.

Issued at Washington, D.C., September 29, 1978.

INTERSTATE COMMERCE
COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28287 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. No. 1252, ICC Order No. 74]

REROUTING OF TRAFFIC

To All Railroads: In the opinion of Robert S. Turkington, Agent, various railroads are unable to transport traffic over their lines because of work stoppage by certain of their operating employees.

It is ordered:

(a) *Rerouting traffic.* Certain railroads being unable to transport traffic over their lines because of work stoppage by certain of their operating employees these carriers and their connections are hereby authorized to reroute or divert such traffic over any available route to expedite the movement, regardless of the routing designated on the waybill. The billing covering all such cars rerouted or diverted shall carry a reference to this order as authority for the rerouting. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the par-

ticipation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4:30 p.m., September 27, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 3, 1978, unless otherwise modified, changed, or suspended.

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. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 27, 1978.

INTERSTATE COMMERCE
COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28289 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. No. 1252; I.C.C. Order No. 10;
Amdt. No. 5]

SAN DIEGO & ARIZONA EASTERN RAILWAY CO.

Rerouting of Traffic

To all railroads: Upon further consideration of I.C.C. Order No. 10 (San Diego & Arizona Eastern Railway Co.) and good cause appearing therefor:

It is ordered:

I.C.C. Order No. 10 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed or suspended.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment 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. A copy of the amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 28, 1978.

INTERSTATE COMMERCE
COMMISSION,

ROBERT S. TURKINGTON,

Agent.

[FR Doc. 78-28293 Filed 10-5-78; 8:45 am]

[7035-01]

[Rev. S.O. No. 1252; I.C.C. Order No. 31;
Amdt. No. 4]

WESTERN MARYLAND RAILWAY CO.

Rerouting of Traffic

To all railroads: Upon further consideration of I.C.C. Order No. 31 (Western Maryland railway Co.) and good cause appearing therefor:

It is ordered:

I.C.C. Order No. 31 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed, or suspended.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1978.

This amendment 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. A copy of the

amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 27, 1978.

INTERSTATE COMMERCE
COMMISSION,

ROBERT S. TURKINGTON,

Agent.

[FR Doc. 78-28291 Filed 10-5-78; 8:45 am]

[7035-01]

[Notice No. 183]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 10, 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

MC 40898 (Sub-20TA), filed August 4, 1978. Applicant: S. & W. MOTOR LINES, INC., P.O. Box 11439, Greensboro, NC 27409. Representative: A. W. Flynn, Jr., 314 South Eugene Street, P.O. Box 180, Greensboro, NC 27402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Clarion, PA, to

Eden, Greensboro, and Clemmons, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 103051 (Sub-44TA), filed August 4, 1978. Applicant: FLEET TRANSPORT CO., INC., P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Blackstrap molasses and blackstrap molasses based feed ingredients*, (in bulk, in tank vehicles), from Nashville, TN, to points in IN, for 180 days. Supporting shipper(s): National Molasses Co., Willow Grove, PA 19090. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 109294 (Sub-25TA), filed July 26, 1978. Applicant: COMMERCIAL TRUCK CO., LTD., 90 Leeder Avenue, Coquitlam, BC, Canada V3J 6Z9. Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rolled paper*, from Longview, WA, to the United States-Canadian boundary at Blaine and Sumas, WA, restricted to shipments moving on specialized rolled paper flatbed equipment, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mac Millan Bloedel Ltd., 1075 West Georgia, Vancouver, BC. Send protests to: Hugh H. Chaffee District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 110012 (Sub-47TA), filed August 4, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, P.O. Box 68, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and returned shipments of new furniture*, from the plantsites of Lea Industries, Inc., Division of Sperry-Hutchinson Co., located at or near Richmond and Kenbridge, VA, to Morristown, TN, for 180 days. Applicant intends to tack the authority herein applied to their authority held in Subs-1, 7, 23 and 24. Applicant has

also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lea Industries, Inc., Division of Sperry-Hutchinson Co., P.O. Box HP No. 3, 1 Plaza Center, High Point, NC 27261. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 113751 (Sub-24TA), filed July 31, 1978. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Street, P.O. Box 47, Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6401 Odana Road, Madison, WI 53719. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Charcoal and charcoal briquettes, and wood chips, vermiculite, lighter fluid, and accessories* used in outdoor cooking, in mixed loads with charcoal and charcoal briquettes, from plants of Husky Industries, Inc., located at Waupaca, WI, and Isanti, MN, to points in LA, MD, NC, NY, SC, TN, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA. 30346 (Vernon LeRoy Ekedahl Sr., vice president). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 114725 (Sub-88TA), filed August 2, 1978. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: Donald F. Swerczek (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia* (in bulk), from the facilities of Chevron Chemical Co. near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jonah Pollack, traffic representative, Chevron Chemical Co., 3001 L. B. J. Freeway, Suite 130, Dallas, TX 75234. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 115092 (Sub-70TA), filed July 31, 1978. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Authority sought to operate as a common carrier, by motor

vehicle, over irregular routes, transporting: *Scrap or waste paper*, from points in CA, to Toledo, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., 900 Southwest Fifth Avenue, Portland, OR 97204 (John R. Tuttle, Transportation Analyst-Motor). Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 116063 (Sub-149TA), filed July 31, 1978. Applicant: WESTERN COMMERCIAL TRANSPORT, P.O. Box 270, 72929 West 5th Street, Fort Worth, TX 76101. Representative: W. H. Cole, P.O. Box 270, Fort Worth, TX 76101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Vegetable oils* (in bulk, in tank vehicles), from Opelousas, LA, to points in MS, TN, GA, FL, AR, and KS, for 180 days. Supporting shipper(s): Lou Ana Foods, Inc., 731 North Railroad Avenue, Opelousas, LA 70570. Send protests to: Robert J. Kirspe, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 119700 (Sub-39TA), filed July 31, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill and wood products, plywood, particleboard, preservatives treated or untreated*, from the facilities of Willamette Industries, Inc., at Zwolle and Natchitoches, LA, to points in AR, IL, IN, IA, MI, MO, OH, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Willamette Industries, Inc., P.O. Box 606, Ruston, LA 71270. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64119.

MC 119726 (Sub-138TA), filed August 4, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beaty, Suite 1000, 130 East Washington Street, Indianapolis, IN 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages, related advertising matter, and materials and supplies* used in the manufacture and distribution of malt beverages, between points in the

United States in and east of IA, MN, MO, OK, and TX, on the one hand, and points in Houston County, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pabst Brewing Co., Georgia Highway 237 Spur, Pabst, GA. 31069. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 119726 (Sub-139TA), filed August 4, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beaty, 130 East Washington Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Owens-Illinois, Inc., at or near Clarion, PA, to Eden, Greensboro and Clemmons, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 126673 (Sub-3TA), filed July 31, 1978. Applicant: REMO G. RICCI, d.b.a. RICCI BROTHERS TRUCKING, 600 Stage Gulch Road, Petaluma, CA 94952. Representative: Raymond A. Greene, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Processed animal and poultry feed*, (in bulk), between Petaluma, CA, and Yerington, NV, under a continuing contract, or contracts, with Hunt & Behrens, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hunt & Behrens, Inc., P.O. Box 2040, Petaluma, CA 94952. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 128270 (Sub-29TA), filed July 31, 1978. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plant site and facilities of North-Western Steel & Wire Co., at Sterling & Rockfalls, IL, to points in

CO, IA, MN, MO, KS, NE, ND, SD and WI, for 180 days. Supporting shipper(s): Northwestern Steel and Wire, Larry D. Mangon, manager, transportation services, Avenue B and Wallace Street, Sterling, IL 61081. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129788, filed July 31, 1978. Applicant: NASS TRUCK LINES, INC., Box H, Wenona, IL 61377. Representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Detroit, MI, to Decatur, Springfield, Champaign, and Jacksonville, IL, for 108 days. Applicant has also filed an underlying ETA seeking up to 90 days of operation authority. Supporting shipper(s) Starr Bros., Inc., 300 Singer Avenue, Springfield, IL 62703 (2) Michael N. Maurer, President, Maurer Distributing Co., 2802 Woodford Street, Decatur, IL 65226; (3) Gary R. Mraz, General Manager, Pierson Distributors, 234 East Court, Jacksonville, IL 62650; and (4) James J. McNabney, President, Van Pickerett-Champaign Ltd., 606 East Kenyon, Champaign, IL 61820. Send protests to: Lois M. Stahl Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129788, (Sub-12TA), filed July 31, 1978. Applicant: NASS TRUCK LINES, INC., Box H, Wenona, IL 61377. Representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Milwaukee, WI, to Decatur, Champaign, Peoria, and Jacksonville, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Baumgarten distributing Co., Inc., P.O. Box 1466, Peoria, IL 61655; (2) Pierson Distributors, 234 East Court, Jacksonville, IL 62650; (3) Clark Distributing Co., 804 North Elm, Champaign, IL 61820; and (4) Maurer Distribution Co., 2802 North Woodford Street, Decatur, IL 62526. Send Protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 133671 (Sub-5TA), filed July 26, 1978. Applicant: MILLER BROS. CO., INC., P.O. Box 1, Hyrum, UT 84319.

Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by 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, from the facilities of E. A. Miller & Sons Packing Co., Inc., at or near Hyrum, UT, to points in the States of IA, IL, MN, NE, ND, SD, and WI, under a continuing contract, or contracts, with E. A. Miller & Sons Packing Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): E. A. Miller & Sons Packing Co., Inc., P.O. Box EA, Hyrum, UT 84319. Send protests to: Lyle D. Hilfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 14405 (Sub-49TA), filed July 31, 1978. Applicant: BACON TRANSPORT CO., P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt* (in bulk, in tank vehicles), between Houston, TX, and Augusta, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Riffe Petroleum Co., 1111 Philtower Building, Tulsa, OK 74103. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 135797 (Sub-136TA), filed July 31, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies* used in the manufacture and distribution of animal and poultry medicinal health products, pesticides and feed supplements, from points in the United States (except AK and HI), to the facilities of Pfizer, Inc., at or near Lee's Summit, MO, for 180 days. Supporting shipper(s): Pfizer, Inc., 1107 South Missouri 291, Lee's Summit, MO 64063. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 138308 (Sub-54TA), filed July 31, 1978. Applicant: KLM, INC., 2102 Old

Brand Road, P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., 1400 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film*, in vehicles equipped with mechanical refrigeration, from the facilities of RJR Archer, at or near Aurora, OH, to points in TX, LA, MS, AL, GA, NC, SC, FL, AR, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): RJR Archer, 1450 South Chillicothe Road, Aurora, OH 44202. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 139973 (Sub-49TA), filed July 31, 1978. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, MO 65251. Representative: Larry Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment, and parts and pole-line hardware*, between Nacogdoches, TX, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX., restricted to traffic originating at or destined to the facilities of McGraw-Edison Co., for 180 days. Supporting shipper(s): McGraw-Edison Co., P.O. Box U, Columbia, MO 65201. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City MO 64106.

MC 140389 (Sub-34TA), filed July 26, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Highway 77 North, Gadsden, AL 35902. Representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), from Seattle, WA, and points in its commercial zone to points in CA and Sparks, NV, and points in its commercial zone, (1) restricted to traffic moving on bills of lading issued by Puget Sound Shipper Association, and (2) restricted to traffic having a prior movement by water or traffic not having a prior movement by water when moving or mixed with shipments having a prior movement by water; and (2) *rugs, carpets, carpeting, and textile products*, between points in CA and NV, and from points in CA and

NV, to points in WA, OR, ID, UT, and CO, for 180 days. Supporting shipper(s): There are approximately (18) statements of support attached to this 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: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 141266 (Sub-5TA), filed July 31, 1978. Applicant: WILLIAM T. AMERSON, d.b.a. BILL AMERSON TRUCKING, Route 1, Box 305, Georgetown, SC 29440. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from the facilities of Charles Ingram Lumber Co. at or near Andrews and Florence, SC, to points in AL, DE, FL, GA, KY, MD, MS, NJ, NC, OH, PA, TN, VA, WV, and DC, under a continuing contract, or contracts, with Charles Ingram Lumber Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Charles Ingram Lumber Co., P.O. Box 1690, Florence, SC. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 143274 (Sub-2TA), filed July 26, 1978. Applicant: BILLY P. RUPPE, d.b.a. RUPPE MOTOR LINES, 309 Kraft Street, Gaffney, SC 29340. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Disposable dental and hospital supplies*, from Spartanburg, SC, and points in its commercial zone, to Washington, DC; Miami and Tampa, FL; Chicago, IL; Louisville, KY; Bridgeton, NJ; and New York, NY, and points in their commercial zones; and to those ports of entry on the international boundary line between the United States and Canada located in NY, under a continuing contract, or contracts, with Spartan Mills (SC corporation) and Spartan Healthcare Products Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Spartan Mills (SC corporation) and Spartan Healthcare Products Division, P.O. Box 5784, Spartanburg, SC 29301. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building,

1400 Pickens Street, Columbia, SC 29201.

MC 144145 (Sub-5TA), filed August 4, 1978. Applicant: GILBERT TRUCK LINES, INC., Alger Road, Route No. 2, Ithaca, MI 48847. Representative: James R. Davis, 1018 Michigan National Tower, Lansing, MI 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal and soybean hulls*, in bulk, in hopper trucks, from the facilities of Cargill, Inc., located at Chicago, IL, to points in IN, WI, and MI, except points in MI south of M-55, and except Pickford and Sault Ste. Marie, MI, for 180 days. Supporting shipper(s): Cargill, Inc., 122d and Torrence Avenue, Chicago, IL 60617. Send protests to: C. R. Fleming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 145072 (Sub-1TA), filed July 31, 1978. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Items made totally or partially of styrofoam, toilets, lawnmowers, snowblowers, snowblades, chains, grass trimmers, and materials, supplies, and equipment utilized in the manufacture thereof*, between Batesville, MS and its commercial zone, on the one hand, and, on the other, all points in the United States, (2) *such merchandise as is dealt in by retail discount stores, and materials, equipment, and supplies utilized in the distribution thereof*, from points in NY, NJ, PA, VA, WV, OH, MA, NC, SC, MD, and IL, to the facilities of Baddour, Inc., located at or near Memphis, TN, for 180 days. Supporting shipper(s): (1) Baddour, Inc., 4300 New Getwell Road, Memphis, TN 38118, (2) Poloron Products, P.O. Box 152, Batesville, MS 38606. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

By the Commission.

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

[FR Doc. 78-28151 Filed 10-5-78; 8:45 am]

[7035-01]

[Notice No. 182]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 6, 1978.

The following are notices of filing of applications for temporary authority under section 210(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, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 48441 (Sub-21 TA), filed July 12, 1978, and published in the FEDERAL REGISTER issue of September 13, 1978, as MC 48441 (Sub-15 TA), and republished as corrected this issue. Applicant: R. M. E., INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heasley, 666 11th Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and accessories therefor*, from the facilities of Owens-Illinois, Inc., at or near Streator, IL, to points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens-Illinois, Inc., Gerald C. Turner, Manager of Transportation, Glass Container Division,

P.O. Box 1035, Toledo, OH 43666. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 48441 (Sub-22TA), filed July 12, 1978, and published in the FEDERAL REGISTER issue of September 13, 1978, as MC 48441 (Sub-16 TA), and republished as corrected this issue. Applicant: R. M. E., INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 666 11th Street, NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers*, from the facilities of Miller Brewing Co., at Milwaukee, WI, to Fulton, Oswego, Syracuse, and Liverpool, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert Niemann, Assistant Corporate Traffic Manager, Rates, Miller Brewing Co., 3939 West Highland Boulevard, Milwaukee, WI 53208. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 48958 (Sub-156TA), filed August 2, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representatives: Lee E. Lucero (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber and plastic articles* (except commodities in bulk, in tank vehicles), from the facilities of ENTEK Corp. of America, at or near Irving, TX, to points in AR, AZ, CA, CO, IL, IN, IA, KS, MO, NE, NM, NV, OH, OK, UT and WY, and (2) *materials and supplies* used in the manufacture of the above-named articles from the destinations shown in (1) to the facilities of ENTEK Corp. of America, at or near Irving, TX, for 180 days. Applicant states that it does not intend to tack the authority sought herein with any other held by it. Supporting shipper(s): ENTEK Corp. of America, Robert B. Nielsen, Vice President/Traffic, P.O. Box 61048, Dallas, TX 75261. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 492 U.S. Customs House, Denver, CO 80202.

MC 103051 (Sub-447TA), filed August 2, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Sulfuric acid*, in bulk, in tank vehicles, from Savannah, GA, to points in FL and SC, for 180 days. Supporting shipper(s): American Cyanamid Co., Bound Brook, NJ 08805. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 106194 (Sub-36TA), filed August 2, 1978. Applicant: HORN TRANSPORTATION, INC., 3008 East Fourth Street, Pueblo, CO 81002. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, except articles which, because of size or weight require the use of special equipment, when used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and when used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main pipelines, from points in Pueblo County, CO, to points in TX, (2) *pipe, pipe coupling, and fittings therefor, iron and steel articles, machinery and agricultural implements and parts therefor, materials, equipment and supplies*, incidental to or used in the construction, development, operations, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, contractor's equipment, materials, and supplies, and petroleum products other than in bulk in tank vehicles, when used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and when used in, or in connection with, the construction, operations, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main pipelines, between points in MO located in the Kansas City, MO-Kansas City, KS commercial zone as defined by the Commission, points in that part of NE on and south of the Platte and North Platte Rivers, points in that part of CO on and east of a line beginning at the WY-CO State line and extending along U.S. Hwy 87 to Wellington, CO, then along CO Hwy 1 to junction U.S. Hwy 287, then along U.S.

Hwy 287 to Denver, CO, then along U.S. Hwy 85 to junction U.S. Hwy 87, then along U.S. Hwy 87 to the CO-NM State line, on the one hand, and, on the other, points in KS, OK and TX, and (3) *iron and steel articles* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts and iron and steel articles when used in, or in connection with the construction, operations, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main pipelines, from points in KS, OK, and TX to points in NM, ID, UT, WY, MT, and points in that part of CO on and west of U.S. Hwy 85, for 180 days. Supporting shipper(s): There are approximately (11) 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: District Supervisor H. C. Ruoff, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 114569 (Sub-238 TA), filed August 2, 1978. Applicant: SHAFFER TRUCKING, INC., a Pennsylvania corporation, P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from the facilities of Serv-A-Portion, Inc., at or near Cincinnati, OH, to Minneapolis and St. Paul, MN, Ayer, MA, Kansas City and St. Louis, MO, New York City, NY, and their commercial zones, and points in PA, for 180 days. Restricted to traffic originating at the above origin and destined to the named destinations. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Serv-A-Portion, Inc., 6943 Morrison Place, Cincinnati, OH 45243. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

MC 117993 (Sub-10 TA), filed August 2, 1978. Applicant: FRUITBELT TRUCKING INC., 12 Smith Street, St. Catharines, ON, Canada L20 3H9. Representative: Robert D. Gunderman, Esq., 710 Statler Hilton, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, except in

bulk, in tank vehicles, from ports of entry on the international boundary line between the United States and Canada, located in NY and MI, to points in ME, VT, MA, PA, MD, NY, NJ, CT, DE, VA, and DC, for 180 days. Restriction: This authority is restricted to traffic moving in foreign commerce and originating at the facilities of Gilbey Canada Ltd., Toronto, ON, Canada, and Hiram Walker & Sons Ltd., Walkerville and Toronto, ON, Canada. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hiram Walker & Sons Ltd., P.O. Box 2518, Walkerville, ON M8Y 4S5. Gilbey Canada Ltd., 400 Kipling Avenue, Toronto, ON M8V 3L2. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 123885 (Sub-28 TA), filed August 2, 1978. Applicant: C & R TRANSFER CO., P.O. Box 1010, Rapid City, SD 57701. Representative: Mark Menard, 5301 North Cliff, P.O. Box 480, Sioux Falls, SD 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt and road oil and petroleum residual fuel oil*, in bulk, in tank trucks, from points in WY, restricted to shipments handled for the account of Little American Refining Co., to points in NE bounded by SD State line on the north, Hwy 281 on the east, KS State line on the south, and Hwy 83 on the west, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. L. Healy Construction Co., Box 512, Sioux Falls, SD 57101. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 124896 (Sub-65 TA), filed August 2, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne and Ralston Streets, P.O. Box 3485, Wilson, NC 27893. Representative: Larry Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* for Fast Food Merchandisers, Inc., and Gol-Pak Corp., Inc., subsidiaries of Hardee's Food Systems, from Rocky Mount, NC, to Independence, MO, LaGrange, GA, Mason City, IA, Oneida, NY, and Quakertown, PA, from Oneida, NY, to Independence, MO, Mason City, IA, Quakertown, PA, and Rocky Mount, NC, from Calhoun, GA, to Rocky Mount, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operat-

ing authority. Supporting shipper(s): Fast Food Merchandiser, Inc., 1233 North Church Street, P.O. Box 1241, Rocky Mount, NC 27801. Gol-Pak Corp., Inc., P.O. Box 208, Oneida, NY 13421. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 128246 (Sub-31TA), filed August 2, 1978. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box AD, Watsonville, CA 95076. Representative: Michael P. Groom, Esq., 500 the Swenson Building, 777 North 1st Street, San Jose, CA 95112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *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) from the facilities of Swift & Co. at or near Clovis, NM, to CO, KS, OK, TX, and UT, under a continuing contract or contracts with Swift & Co., Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift & Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: District Supervisor, Michael M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 135895 (Sub-28TA), filed August 2, 1978. Applicant: B & R DRAYAGE CO., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages in containers, and materials, equipment, and supplies* used in the manufacture and distribution of carbonated beverages (except commodities in bulk) between the facilities of Shasta Beverages Co., Kenner, LA, on the one hand, and, on the other, points in AL, FL, LA, MS, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shasta Beverages Co., Inc., 755 East Airline, Kenner, LA 70063. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 136220 (Sub-57TA), filed July 3, 1978, and published in the FEDERAL REGISTER issue of August 30, 1978, and republished as corrected this issue. Applicant: ROY SULLIVAN, d.b.a. SULLIVAN'S TRUCKING CO., INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong,

6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron ore pellets* (in bulk in dump vehicles), from the facilities of St. Joe Lead Co. (Iron Ore Division) at or near Sullivan, MO, to Houston, TX, for 180 days. Supporting shipper(s): St. Joe Lead Co., 7733 Forsythe Boulevard, Clayton, MO 63105. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102. The purpose of this republication is to show *dump vehicles* in lieu of *tank vehicles*, as previously published.

MC 138875 (Sub-101TA), filed August 2, 1978. Applicant: SHOEMAKER TRUCKING CO., an Idaho corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh, Executive Vice President, Shoemaker Trucking Co., 11900 Franklin Road, Boise, ID 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except meats, meat products, and packinghouse products, and commodities used by packinghouses as described in sections A and C of appendix I to the descriptions in Motor Carrier Certificates, 61 MCC 209 and 766), and *potato products, other than frozen* (except products in bulk), from points in ID and those points on OR and WA that are located east of U.S. Hwy 97, to points in CT, DE, IN, MD, MA, NJ, NY, PA, OH, RI, VA, WV, DC, and to AR, LA, OK, KY, TN, NC, SC, MS, AL, GA, TX, and FL, for 180 days. Supporting shipper(s): James G. Wilson, Traffic Manager, Chef-Reddy Corp., Broadway and Lee Streets, Othello, WA 99344; Donald D. Fowle, Senior Manager-Traffic, Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID; W. F. Hansen, Vice President of Sales and Traffic, W. H. Moseley Co., Bank of Idaho Building, P.O. Box 861, Boise, ID 83702; Norman B. Towne, Director of Transportation, J. R. Simplot Co., 999 Main Street, Boise, ID 83702. Send protests to: Barney L. Hardin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 140033 (Sub-61TA), filed August 4, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Winkle & Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and container ends*, from Oil City, PA, to Weatherford, TX, for 180 days. Ap-

plicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Power Service Products, Inc., 1410 North Bowie, Weatherford, TX 76086. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 140829 (Sub-129TA), filed August 2, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials and chemicals* (other than bulk, in tank vehicles), from Freehold, NJ, and Toms River, NJ, to points in CA, TX, IL, and MO, restricted to traffic originating at the named origins and destined to points within the named destination States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert F. Casper, Manager, Domestic Traffic Operations, CIBA-GEIGY Corp., Ardsley, NY 10502. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 10 North 14th Street, Omaha, NE 68102.

MC 141205 (Sub-8TA), filed August 2, 1978. Applicant: HUSKY OIL TRANSPORTATION CO., 600 South Cherry Street, Denver, CO 80222. Representatives: F. Robert Reeder and Stephen K. Schroeder, P.O. Box 11898, Salt Lake City, UT 84147. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil, scrubber oil, and condensate*, from Sherman and Cheyenne Counties, KS, to Washington, Weld, and Adams Counties, CO, under a continuing contract or contracts with Husky Oil Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Husky Oil Co., 600 South Cherry Street, Denver, CO 80222. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 142368 (Sub-12TA), filed June 19, 1978, and published in the FEDERAL REGISTER issue of August 24, 1978, and republished as corrected this issue. Applicant: DANNY HERMAN TRUCKING, INC., 15252 Valley Boulevard, P.O. Box 3048, City of Industry, CA 91744. Representative: William H. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as

a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned seafoods*, from points in the Los Angeles Harbor, CA, commercial zone, the port facilities at Newport News and Hampton, VA, and the ports of entry between the United States and the Republic of Mexico at or near Brownsville, TX; Laredo, TX; Nogales, AZ; and San Ysidro, CA, to Houston, TX; Jacksonville, FL; Norfolk, VA; and Pico Rivera, CA, and from Houston, TX; Jacksonville, FL; Norfolk, VA; and Pico Rivera, CA, to points in CA, AZ, NM, TX, OK, AR, LA, MS, AL, GA, FL, SC, NC, VA, MD, DE, PA, NJ, NY, and Washington, DC, for 180 days. Supporting shipper: Norwegian Fish Importers, Inc., 4821 Gregg Road, Pico Rivera, CA 90660. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012. The purpose of this republication is to show the complete scope of the application as previously omitted.

MC 142603 (Sub-2TA), filed August 2, 1978. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representatives: S. Michael Richards and Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Great Barrington, MA, to all points in the United States (except AK and HI), under continuing contract or contracts with Berkshire Paper Co. of Great Barrington, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bronly S. Boyd, Vice President, Berkshire Paper Co., Inc., River Street, Great Barrington, MA 01230. Send protests to: District Supervisor, Interstate Commerce Commission, 338-342 Federal Building, 436 Dwight Street, Springfield, MA 01103.

MC 144761 (Sub-1TA), filed July 31, 1978. Applicant: R. B. (PARKER) GOODLOE, d.b.a. GOODLOE TRUCKING CO., 7919 Louisville Avenue, Lubbock, TX 79423. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by meat packinghouses*, in bulk, in insulated tank vehicles, from the facilities of John Morrell & Co., at Lubbock and Amarillo, TX, to points in TX, for export only, for 180 days. Supporting shipper: John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Haskell E. Ballard, District Supervisor, Interstate

Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 145073 (Sub-1TA), filed August 2, 1978. Applicant: DANCO TRANSPORT CORP., 260 Northland Boulevard, Cincinnati, OH 45246. Representative: A. Charles Tell, Attorney, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Sand and gravel aggregates*, in bulk, from Hamilton County, OH, to the following counties in Kentucky: Breathitt, Clark, Estill, Fayette, Floyd, Gerrard, Harlan, Jackson, Jessamine, Johnson, Knott, Knox, Laurel, Lee, Letcher, Madison, Magoffin, Montgomery, Owsley, Perry, Powell, Rockcastle, Rowan, Whitley, Wolfe, and Clay; (B) *coal*, in bulk, from the following counties in Kentucky: Boyd, Breathitt, Carter, Clay, Elliott, Estill, Floyd, Greenup, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Madison, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Powell, Rockcastle, Whitley, and Wolfe to points in OH and IN, under a continuing contract or contracts with Hilltop Basic Resources, Inc., and Danis Coal Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hilltop Basic Resources, Inc., P.O. Box 11056, Cincinnati, OH 45211; Danis Coal Corp., 260 Northland Boulevard, Cincinnati, OH 45246. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 145119TA, filed July 26, 1978. Applicant: LINT TRANSFER, INC., 4549 Delaware Avenue, Des Moines, IA 50313. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires, tire parts, inner tubes, and materials, equipment, and supplies* used in the manufacture of tires and inner tubes, between the facilities of the Firestone Tire & Rubber Co., at Des Moines, IA, on the one hand, and, on the other, points in NE, and points in IL, in the Moline, East Moline, and Rock Island commercial zones, under a continuing contract, or contracts, with the Firestone Tire & Rubber Co., for 180 days. Supporting shipper: The Firestone Tire & Rubber Co., 1200 Firestone Parkway, Akron, OH 44317. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commis-

sion, 518 Federal Building, Des Moines, IA 50309.

MC 145148 (Sub-1TA), filed August 2, 1978. Applicant: SUTTER TRUCKING & EQUIPMENT, INC., 277 Versailles Road, Irving, NY 14081. Representatives: S. Michael Richards and Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wire and wire products*, from Tonawanda, NY, to all points in CT, DE, GA, KY, ME, MD, MA, MO, NC, ND, NH, NJ, OH, PA, RI, SC, SD, TN, VT, VA, and WV, and, (2) *Materials, supplies, and equipment used in the manufacture of wire and wire products*, from all points in the destination States in (1) above to Tonawanda, NY, under continuing contract or contracts with New York Wire Mills Corp., a subsidiary of Ivaco Industries, Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ernest R. LaFever, General Traffic Manager, New York Wire Mills Corp., a subsidiary of Ivaco Industries, Ltd., 3937 River Road, Tonawanda, NY 14150. Send protests to: Interstate Commerce Commission, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 145151 (Sub-1TA), filed July 31, 1978. Applicant: GARY STEWART TRUCKING, INC., Rural Route No. 3, Box 112, Johnson Creek, WI 53038. Representative: Ronald E. Laitsch, 113 North Third Street, Watertown, WI 53094. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Snow throwers and lawnmowers, and accessories, attachments, and parts for snow throwers and lawnmowers*, from Lake Mills, WI, to Agawam, Southboro, and West Newton, MA; Cleveland, OH; Fort Custer and Springfield, MI; Mankato, MN; Philadelphia, PA; Syracuse and Tonawanda, NY; Barington, IL, and Fargo, ND, under a con-

tinuing contract, or contracts, with Wisconsin Marine, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wisconsin Marine, Inc., P.O. Box 28, Lake Mills, WI 53551 (Dean Moon, Manufacturing Manager). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, WI 53202.

MC 145183TA, filed August 2, 1978. Applicant: R. L. LEE, d.b.a. L & T TRUCKING CO., Route 2, Box 132-B, Keithville, LA 71047. Representative: Eleanor B. Lee (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crossties, finished lumber, poles, pallets, roofing materials, and plywood*, between all points in LA, AR, TX, and MI, for 180 days. Supporting shipper(s): Southern Forest Products of Louisiana, Inc., P.O. Box 36890, 810 East 70th Street, Suite, E, Shreveport, LA 71103; Maston Nance, P.O. Box 244, Plain Dealing, LA 71064; A & M Wood Treating, Route 2, Box 81B, Greenwood, LA 71033. Send protests to: Connie A. Guillory, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 145199TA, filed August 2, 1978. Applicant: WESTERFELD TRUCK LEASING, INC., Rural Route 10, Greensburg, IN 47240. Representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, between the plantsite of KB Specialty Foods at or near Greensburg, IN; Atlanta, GA; Charleston, WV; OH, MI, MO; Little Rock, AR; KY; Memphis and Nashville, TN; IL; Salem and Roanoke, VA;

Houston and Dallas, TX; and Irwin and Pittsburgh, PA, from the facilities of the Kroger Co., Cincinnati, OH, to St. Louis, MO; Indianapolis, IN; Louisville, KY; and Detroit, MI, for 180 days. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with the Kroger Co. Supporting shipper: Kroger Co., 1014 Vine Street, Cincinnati, OH 45202. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, room 429, Indianapolis, IN 46204.

By the Commission.

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

[FR Doc. 78-28150 Filed 10-5-78; 8:45 am]

[1505-01]

[Vol. No. 105]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-20685, appearing at page 32494 in the issue of Thursday, July 27, 1978, on page 32496, in the first column, in the paragraph beginning MC 95540, "(Sub-101F)" should read "(Sub-1015F)."

[1505-01]

[Decisions Vol. No. 7]

ORDER-NOTICE

Correction

In FR Doc. 78-16999, appearing at page 26836 in the issue for Thursday, June 22, 1978, on page 26838, in the middle column, in the fifteenth line in the paragraph beginning "No. MC 107515 (Sub-1149F)", "NM" should read "MN."

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

[M-167, Amdt. 3; Sept. 29, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the September 29, 1978, agenda.

TIME AND DATE: 1 p.m., September 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 21a. Docket 30356, *Transcontinental Low-Fare Route Proceeding* (Instructions to staff).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Board heard oral argument on this case yesterday, September 28, 1978, and had announced its intention to issue instructions to staff at its October 2, 1978, meeting. As announced by Meeting Announcement Amendment No. 168, Amdt. 1, issued today, the Board will not be meeting on Monday, October 2, 1978. The Chairman will not be available for Board meetings in Washington from October 4 through October 16. So that the Chairman can participate and the Board can continue its policy of issuing instructions to staff as soon as possible after the oral argument, the following Members have voted that agency business requires the addition of item 21a to the September 29, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-2022-78 Filed 10-4-78; 8:45 am]

[6320-01]

2

[M-167, Amdt. 4; Sept. 29, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion from the September 29, 1978, meeting.

TIME AND DATE: 1 p.m., September 29, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 17. Dockets 28366 and 32710, *Denver-Alaska Service Investigation, San Francisco-Reno-Albuquerque-Texas Service Investigation—Orders on Reconsideration* (Memo 8193, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: At the Board meeting today, the Bureau of Administrative Law Judges requested that item 17 on the agenda be deleted so that the Bureau could submit an additional memorandum to the Board on this subject. Accordingly, the following Members have voted that agency business requires the deletion of item 17 from the September 29, 1978, meeting and the addition of that item to the October 5, 1978, agenda as item 6a and that no earlier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Gloria Schaffer

[S-2021-78 Filed 10-4-78; 8:45 am]

[6320-01]

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[M-168, Amdt. 2; Sept. 29, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition to the October 5, 1978, meeting.

TIME AND DATE: 10 a.m., October 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 6a. Dockets 28366 and 32710, *Denver-Alaska Service Investigation, San Francisco-Reno-Albuquerque-Texas Service Investigation—Orders on Reconsideration* (Memo 8193, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: At the Board meeting September 29, 1978, the Bureau of Administrative Law Judges requested that item 17 on the agenda—Dockets 28366 and 32710—be deleted so that the Bureau could submit an additional memorandum to the Board on this subject. Accordingly, the following Members have voted that agency business requires the deletion of item 17 from the September 29, 1978, meeting and the addition of that item to the October 5, 1978, agenda as item 6a and that no earlier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Gloria Schaffer

[S-2025-78 Filed 10-4-78; 8:45 am]

[6740-02]

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 44965, published September 29, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., October 4, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company
RP-6. RP77-58, Mid Louisiana Gas Co.

CAP-11. ER78-522, Virginia Electric and Power Co.

KENNETH F. PLUMB,
Secretary.

[S-2033-78 Filed 10-4-78; 2:12 pm]

[6740-02]

5

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: October 4, 1978, approximately 1 p.m.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Initiation of private investigation.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-2032-78 Filed 10-4-78; 2:12 pm]

[6720-01]

6

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 11, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Application for Modification of Condition for Insurance of Accounts—Amigo Savings & Loan Association, Brownsville, Tex.

Merger Application—First Federal Savings & Loan Association of Buffalo, Buffalo, N.Y., into Franklin Society Federal Savings & Loan Association, New York, N.Y. Limited Facility Application—First Federal Savings & Loan Association of Fort Pierce, Port Pierce, Fla.

Application for Permission to Organize a Federal Association—Clarence T. Hellums, Jr., et al., Centreville, Ala.

Application for Insurance of Accounts—Aztec Savings & Loan Association, Copperas Cove, Tex.

Preliminary Application for Conversion into a Federal Mutual Association—United Savings & Loan Association, Oceanside, N.Y.

Branch Office Application—Piggot Federal Savings & Loan Association, Piggot, Ark.

Branch Office Application—Home Federal Savings & Loan Association, Algona, Iowa. Application for Bank Membership and Insurance of Accounts—Tri-Cities Savings & Loan Association, Kennewick, Wash.

Satellite Office Application—Collective Federal Savings & Loan Association, Egg Harbor, N.J.

Branch Office Application—Wolverine Federal Savings & Loan Association, Wolverine, Mich.

Branch Office Application—First Federal Savings & Loan Association of Campbells-ville, Campbells-ville, Ky.

Consideration of Voluntary Termination of Insurance of Accounts and Withdrawal from Bank Membership—New Bern Savings & Loan Association, New Bern, N.C.

Consideration of post-approval amendment to the application of First Federal Savings & Loan Association of Okeechobee County, Okeechobee, Fla., for permission to convert from mutual to stock form.

Application for Permission to Organize a New Federal—P. Brian Spurlock et al., Marrero, La.

Consideration of proposed revisions to the conversion regulations and related forms.

No. 188, October 4, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2035-78 Filed 10-4-78; 3:34 pm]

[6730-01]

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., October 12, 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. Agreement No. 57-111: Modification of the Pacific Westbound Conference Agreement to include divulgence of confidential Conference matters as a breach of the agreement.

2. Proposed reduced and initial through rates and provisions between U.S. Atlantic and Gulf Ports and Ports in the U.S. Virgin Islands filed by Trailer Marine Transport Corp.

3. Section 21 Order: Baltic Shipping Co.—Rates on buses in the U.S. Gulf Coast/North Europe Trade.

4. Informal Docket 534(I): Aquino Sailcloth, Inc., v. United States Lines, Inc.—Discussion of the record.

5. Docket No. 74-30: Sea-Land Service, Inc.—General Increase in Rates in the U.S. West Coast/Puerto Rico Trade—Discussion of the record.

6. Docket No. 75-57: Matson Navigation Co.—Proposed rate increases in the United States Pacific Coast/Hawaii Domestic Off-shore Trade—Discussion of the record.

7. Docket No. 76-43: Matson Navigation Co.—Proposed rate increases in the United States Pacific Coast/Hawaii Domestic Off-shore Trade—Discussion of the record.

8. Docket No. 77-11: Petition for Declaratory Order of Pacific Cruise Conference—Discussion of the record.

9. Docket No. 78-23: Roberts Steamship Agency, Inc. v. The Board of Commissioners of the Port of New Orleans and Atlantic and Gulf Stevedores, Inc.—Review of order of dismissal.

10. Docket No. 78-46—Agreement Nos. T-3191, et al.—Petition for reconsideration of amended order of investigation.

Portion closed to the public:

1. Docket No. 71-29: Baton Rouge Marine Contractors, Inc. v. Cargill, Inc.—Discussion of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2023-78 Filed 10-4-78; 8:45 am]

[6210-01]

8

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Wednesday, October 11, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 3, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2026-78 Filed 10-4-78; 10:20 am]

[6750-01]

9

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, October 12, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTERS:

1. Approval of minutes on nonadjudicative matters considered at meetings of September 19, and 27, 1978.

2. Consideration of possible courses of action and dispositions of investigation in Unnamed Arrangers and Sellers of Travel Services, File No. 762 3079.

ADJUDICATIVE MATTERS UNDER PART 3 OF THE RULES OF PRACTICE

The Commission has not yet scheduled any adjudicative items for discussion at this meeting.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded message: 202-532-3806.

[S-2024-78 Filed 10-4-78; 8:45 am]

[7020-02]

10

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, October 10, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Consideration of fiscal year 1980 budget.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2034-78 Filed 10-4-78; 2:33 pm]

[7910-01]

11

RENEGOTIATION BOARD.

DATE AND TIME: Friday, September 29, 1978; 11 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: ESL, Inc., MB Associates.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 3, 1978.

GOODWIN CHASE,
Chairman.

[S-2027-78 Filed 10-4-78; 11:33 am]

[7910-01]

12

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, October 11, 1978; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 and 2 are open to public observation. Matter 3 is closed to public observation. Matters 4 and 5 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held October 3, 1978, and other Board meetings, if any.

2. Recommended clearances without assignment—List 1921:

A. Wyle Laboratories, fiscal year ended January 31, 1976.

B. Brooks & Perkins, Inc., fiscal year ended July 31, 1976.

C. West Point Pepperell Inc., fiscal years ended August 30, 1975 and August 28, 1976.

D. E-A Industrial Corp. fiscal years ended March 31, 1975 and 1976.

E. The Garrett Corp., fiscal years ended December 31, 1973 and 1974.

E-1 The Garrett Manufacturing Ltd., fiscal years ended December 31, 1973 and 1974.

E-2 Aero Hydraulics Inc., fiscal years ended December 31, 1973 and 1974.

E-3 Greer Products Inc., fiscal years ended December 31, 1973 and 1974.

E-4 Mack Truck Inc., fiscal years ended December 31, 1973 and 1974.

E-5 Dunham Bush Inc., fiscal years ended December 31, 1973 and 1974.

Court of Claims Settlement: *Plessey, Incorporated v. United States*, Court of Claims No. 1-78.

4. Approval of agenda for meeting to be held October 24, 1978.

5. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 3, 1978.

GOODWIN CHASE,
Chairman.

[S-2028-78 Filed 10-4-78; 11:33 am]

[7910-01]

13

RENEGOTIATION BOARD.

DATE AND TIME: Thursday, October 12, 1978; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: Clark Equipment Co., fiscal year ended December 31, 1970.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant Gen-

eral Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 3, 1978.

GOODWIN CHASE,
Chairman.

[S-2029-78 Filed 10-4-78; 11:33 am]

[7910-01]

14

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, October 18, 1978; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: IBM Corp., fiscal years ended December 31, 1969 and December 31, 1970.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 3, 1978.

GOODWIN CHASE,
Chairman.

[S-2030-78 Filed 10-4-78; 11:33 am]

[7910-01]

15

RENEGOTIATION BOARD.

DATE AND TIME: Thursday, October 19, 1978; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: U.S. Electronic Publications, Inc., fiscal years ended May 27, 1969 and December 31, 1969, 1970, 1971, 1972, and 1973.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 3, 1978.

GOODWIN CHASE,
Chairman.

[S-2031-78 Filed 10-4-78; 11:33 am]

FRIDAY, OCTOBER 6, 1978
PART II



**DEPARTMENT OF
LABOR**

**Employment Standards
Administration**

**MINIMUM WAGES FOR
FEDERAL AND
FEDERALLY ASSISTED
CONSTRUCTION**

**General Wage Determination
Decisions**

Registered
for
proper

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

**MINIMUM WAGES FOR FEDERAL AND
FEDERALLY ASSISTED CONSTRUCTION****General Determination Decisions**

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basis hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138), and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work

within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purposes of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in

the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Georgia—GA77-1117; GA77-1118.....	Sept. 30, 1977
Kansas—MO78-4047; MO78-4048.....	May 5, 1978
Kentucky—KY77-1124.....	Sept. 30, 1977
Maryland—MD78-3020.....	Apr. 14, 1978
Massachusetts—MA78-2079; MA78-2081.....	Sept. 22, 1978
Michigan:	
MI78-2001.....	Feb. 3, 1978
MI78-2054.....	June 2, 1978
New Jersey—NJ77-3092.....	Oct. 7, 1977
Pennsylvania:	
PA78-3005.....	Feb. 24, 1978
PA78-3012.....	Apr. 28, 1978
PA78-3013.....	Apr. 14, 1978
PA78-3014.....	Mar. 24, 1978
PA78-3015; PA78-3043.....	May 13, 1978
PA78-3054.....	Aug. 11, 1978
South Dakota—78-5001.....	Jan. 20, 1978
Texas:	
TX78-4041.....	Apr. 14, 1978
TX78-4079.....	Aug. 11, 1978
TX78-4080.....	Aug. 4, 1978
TX78-4081.....	Aug. 18, 1978
TX78-4082; TX78-4083;	
TX78-4084; TX78-4085;	
TX78-4087; TX78-4088.....	Aug. 25, 1978
TX78-4096.....	Sept. 22, 1978

SUPERSEDEAS DECISIONS 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. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida—FL76-1105; FL78-1086.....	Sept. 17, 1976
Louisiana—LA78-4077; LS78-4099.....	Aug. 11, 1978
Missouri—MO77-4269; MO78-4098.....	Sept. 30, 1977
New Hampshire:	
NH77-2001; NH78-2100.....	Jan. 21, 1977
NH77-2003; NH78-2101.....	Jan. 28, 1977
Pennsylvania:	
PA77-3125; PA78-3069.....	Sept. 9, 1977
PA78-3048; PA78-3071.....	Aug. 11, 1978
Utah—UT78-5012; UT78-5128.....	Mar. 17, 1978
Vermont—VT76-2170; VT78-2091.....	Dec. 10, 1976

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

General Wage Determination Decision No. CA78-5106, Fresno County, Calif., only is cancelled. Agencies with residential construction projects pending in this location should utilize the project determination procedure by submitting form SF-308. See Regulations Part 1 (29 CFR), § 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. CA78-5106 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 29th Day of September 1978.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

[FR Doc. 78-28013 Filed 10-5-78; 8:45 am]

MODIFICATIONS P. 1

MODIFICATIONS P. 2

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
DECISION #GA77-1117 - Mod. #3 (42 FR 52998 - September 30, 1977) Chatham County, Georgia Change: Electricians: Wiremen Cable splicers	\$ 9.90 10.15	.60 .60	3% + .65 3% + .65		1/5 of % 1/5 of %
DECISION #GA77-1118 - Mod. #4 (42 FR 53000 - September 30, 1977) Richmond County, Georgia Change: Electricians: Wiremen Cable splicers	9.76 10.01	.50 .50	3% + .20 3% + .20		1/5 of % 1/5 of %
DECISION #W078-4047 - Mod. #1 (43 FR 19550 - May 5, 1978) Cass, Clay, Jackson, Platte, Ray, Henry, Johnson, & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas. Change: Boilermakers Bricklayers & stonemasons Marble & tile setters Marble & tile setters' helpers Plumbers Roofers Soft floor layers Terrazzo workers	\$12.00 11.025 11.95 10.25 13.14 11.05 9.21 11.61	1.15 .80 5% 1.05 .65 .50 5%	1.00 .35 4.25% 1.05 .60 .75 4.25%	1.00	.02 .12 .14 1%
DECISION #KY77-1124 - Mod. #2 (42 FR 53044 - September 30, 1977) Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliot, Fayette, Fleming, Franklin, Gallatin, Grayson, Grant, Greenup, Hardin, Harrison, Henry, Jefferson, Jessamine, Letcher, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Nelson, Nicholas, Oldham, Owen, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington, & Woodford Counties, Kentucky Change: Power Equipment Operators: Heavy Construction: Class A Class B Class C Highway Construction: Class A Class B* Class C *Greaser on Grease Facilities servicing heavy equipment	\$10.80 8.33 7.63 9.50 7.55 7.16 7.80	.50 .50 .50 .50 .50 .50 .50	.60 .60 .60 .60 .60 .60 .60		.05 .05 .05 .05 .05 .05 .05

MODIFICATIONS P. 4

DECISION #MD78-3020 - Mod. #5

Power Equipment Operators: Building & Heavy Construction: Group 1 Stone Masons Tile & Terrazzo Workers Truck Drivers: Goosenecks, drop frame trailers All "A" frames, winch trucks fork lifts, and trailers Flat beds & pickups Euclid wagons & dumpsters Dump trucks Truck Drivers (Excavation): Dump truck Euclid wagons & dumpsters Drop frame, gooseneck & trailer Pickups	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
	10.84	.95	1.00	a		.12
	10.63	.70	.50			.07
	8.76	.70	.50			.04
	9.40	1.05	.75	d+e		
	9.20	1.05	.75	d+e		
	8.20	1.05	.75	d+e		
	8.25	1.05	.75	d+e		
	7.94	1.05	.75	d+e		
	7.94	1.05	.75	d+e		
	8.25	1.05	.75	d+e		
	8.14	1.05	.75	d+e		
	7.76	1.05	.75	d+e		

DECISION NO. MA78-2079- Mod. #1
(43 FR 43155- Sept. 22, 1978
Barnstable County, Massachusetts

Change:

Brush, roller tsports, steel
on ground
to:
Brush, rollers, steel on ground

\$9.25 .70 .65
9.25 .70 .65

DECISION NO. MA78-2081- Mod. #1
(43 FR 43164- Sept. 22, 1978
Bristol County, Massachusetts

Add:
Heading of "Heavy & Highway" to
following schedule:
Class I
Class II
Class III
Class IV

8.25 .60 .75
8.50 .60 .75
8.75 .60 .75
9.00 .60 .75

MODIFICATIONS P. 3

DECISION #MD78-3020 - Mod. #5
(42 FR 16045 - April 14, 1978)

Counties of Anne Arundel (excluding the
D.C. Training School), Baltimore, and
Baltimore City, Maryland, and for Heavy
Construction Projects in Harford
Howard Counties, Maryland

Change: Bricklayers Electricians: Zone 1 Zone 2 Zone 3 Laborers, Heavy: Laborers Power tool Operators Pipelayers, wagon drill operators, air track drillers, burners (demolition) Line Construction: Zone 1 Linemen, cable splicers, digging & equipment operator Winch trucks & trucks with pole or steel handling Trucks without winch Groundmen Zone 2 Linemen, cable splicers, digging & equipment operators Winch trucks & trucks with pole or steel handling Trucks without winch Groundmen Zone 3 Linemen, cable splicers, digging & equipment operators Winch trucks & trucks with pole or steel handling Trucks without winch Groundmen Marble Setters Marble, Tile, and Terrazzo Workers Finishers	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
	\$10.63	.70	.50			.07
	11.00	.80	34+1.00			44
	11.25	.80	34+1.00			44
	11.50	.80	34+1.00			44
	6.60	.30	.50			.075
	6.70	.30	.50			.075
	7.10	.30	.50			.075
	12.30	.50	34			
	8.24	.50	34			
	7.69	.50	34			
	7.75	.50	34			
	12.55	.50	34			
	8.49	.50	34			
	7.94	.50	34			
	8.00	.50	34			
	12.80	.50	34			
	8.74	.50	34			
	8.19	.50	34			
	8.25	.50	34			
	10.63	.70	.50			.07
	6.975	.45	.20			

MODIFICATIONS P. 5

MODIFICATIONS P. 6

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
DECISION #M178-2001 - MOD. #3 (43 FR 4817 - February 3, 1978) Kent County, Michigan					
CHANGE: Painters - Brush & Tapers Sheet Metal Workers	.50 .77+c	.25 .65	.67		.02 .02
Footnote: c = \$40,000 Life Insurance Paid by Employer					
DECISION #M178-2054 - MOD. #5 (43 FR 24200 - June 2, 1978) Statewide, Michigan					
CHANGE: Ironworkers: Structural & Reinforcing					
ZONE 1	.70	1.00	1.70		.04
ZONE 2	.26	.8%			.03
Highway Construction: Planting of Trees & Shrubs Only					
LANDSCAPE LABORERS: ZONE 1 Washtenaw, Genesee, Lapeer, Shiawassee, Oakland, Wayne, Monroe, Livingston, Saint Clair & Macomb Counties ZONE 2 Remainder of Counties					
CLASS A Landscape Specialist, including air, gas, diesel, electric tool and/or equipment Zone 1 Zone 2	6.89 6.57				
CLASS B Landscape laborer, Truck Driver, Material Haulers & Small Power Equipment Zone 1 Zone 2	5.14 4.82				

DECISION N177-1092 - MOD. #6
(42 FR 54726 - October 7, 1977)
Bergen, Essex, Hudson, & Passaic
Counties, New Jersey

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
Omit: Roofers: Essex County Slate & tile Slate & tile helpers Hudson County Slate & tile Slate & tile helpers					
Add: Roofers: Essex & Hudson (west of the Hackensack River) Counties: Slate & tile	1.00	1.00			
Change: Areas covered by Carpenters, Insulators, and Millwrights: Area 1: Essex County and that part of Hudson County west of the Hackensack River Area 3: Bergen (east of the Hackensack River including but not limited to Cliffside, Fort Lee, Grantwood, Palisades Park, Ridgefield, Edgewater, Fairview, Leonia, & Coytesville) County and that part of Hudson County east of the Hackensack River, Carpenters, Insulators, & Mill- wrights: Area 1 Carpenters & Insulators Area 2 Carpenters & Insulators Area 3 Millwrights Area 4 Carpenters & Insulators Millwrights Electricians & Cable Splicers: Other residential construction: Bergen & Hudson Counties					
	11.70	8%	7%		1/5%
	11.95	8%	7%		1/5%
	11.70	8%	7%		1/5%
	11.95	8%	7%		1/5%
	11.16	.90	1.40		.02
	11.70	8%	7%	5%	.002
	11.95	8%	7%	5%	.002
	13.29	10%	9%+.58		1.5%

MODIFICATIONS P. 7

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Electricians & Cable Splicers: (Cont'd)						
Passaic County	13.70	7%	9%		.05	
Glaziers: Essex & Hudson Counties	11.95	1.00	1.50			
Laborers:						
Area 2	8.00	1.00	.70		.07	
Group 1						
Area 4	8.60	.70	.40		.07	
Unskilled laborers						
Area 5	8.10	.75	.85		.07	
Unskilled laborers						
Area 6	8.00	.90	.80		.07	
Group 1						
Area 7						
Unskilled laborers	7.15	.80	.80	1.00	.07	
Lathers	11.40	.15	.40		.02	
Line Construction: Bergen and Hudson Counties:						
Linenmen, cable splicers, equipment operators and ground- men	13.29	10%	9%+.58		3/4%	
Painters: Hudson (remainder of County)						
Painters, paperhangers, tapers, coverers, spacklers, and preparatory and cleaning work	10.30	.90	1.75	.50		
Sandblasting & spraying	12.00	.90	1.75	.50		
Repainting	8.50	.90	1.75	.50		
Pipefitters: Bergen and Hudson Counties and the city of Passaic in Passaic County	12.30	1.00	1.00	1.00	.25	
Plumbers:						
Area 1	13.25	.75	1.35		.25	
Area 2	13.25	.75	1.35		.25	
Area 3	13.25	.75	1.35		.25	
Area 4	13.25	.75	1.35		.25	
Plumbers & Pipefitters:						
Area 2	11.67	1.005	1.36	1.00	.04	
Plumbers & Steamfitters: Essex (remainder of county) Co.	12.05	.84	1.08	1.21	.06	
Roofers: Essex County:						
Composition, Damp & Waterproof- ing	12.37	1.00	1.00			
Hudson County:						
Composition, Damp & waterproof- ing: west of the Hackensack River	12.37	1.00	1.00		.07	
Sprinkler Fitters	13.38	.75	1.05			
Tile Setters' Finishers	9.25	.85	.75			

DECISION #PA78-1005 - Mod. #3
(43 FR 7923 - February 24, 1978)
Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland,
Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron,
Centre, Clarion, Clearfield, Crawford, Forest, Greene, McKean,
Venango, Warren, Bedford, Jefferson, Clinton, Elk, Franklin, Fulton,
Huntingdon, Mifflin and Potter Counties, Pennsylvania

Add:
Line Construction:
Butler, Cameron, Clinton,
Crawford, Elk, Erie, Forest,
Lawrence, McKean, Mercer,
Venango, Warren & Potter Cos.,
Pennsylvania

Journeymen Lineman
Dynamite Man
Heavy Equipment Operator
Experience Winch Truck Operator
2nd 6 months
1st 6 months
Experience Truck Driver
2nd 6 months
1st 6 months
Experienced Groundman
2nd 6 months
1st 6 months

DECISION #PA78-1012 - Mod. #6
(43 FR 18476 - April 28, 1978)
Clinton, Centre, Huntingdon, Fulton,
& Mifflin Counties, Pennsylvania

Change:
Bricklayers & Stonemasons
Zone 1
Carpenters & Soft Floor Layers
Ironworkers
Zone 1
Sheet Metal Workers
Zone 2

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$10.80	.50	.32		.08	
10.80	.50	.32		.08	
10.80	.50	.32		.08	
7.59	.50	.22		.05	
7.41	.50	.22		.05	
7.21	.50	.21		.05	
7.43	.50	.22		.05	
7.21	.50	.21		.05	
7.04	.50	.21		.05	
7.26	.50	.22		.05	
7.04	.50	.21		.05	
6.82	.50	.20		.05	
on,					
\$ 9.90	.75	.80		.01	
10.40	6%	8%	9%	.14	
11.095	.975	1.47		.04	
10.47	1.40	1.18		.13	

MODIFICATIONS P. 9

DECISION #PA78-3014 - Mod. #4
(43 FR 12603 - March 24, 1978)
Armstrong, Allegheny, Beaver,
Butler, Fayette, Indiana,
Washington & Westmoreland
Counties, Pennsylvania

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
\$11.25	.75	.60			.02
12.60	3%	3%+.60			5
9.20	.85	.40	.80		
9.72	.85	.40	.80		
10.65	.85	.40	.80		
11.33	.85	.40	.80		
10.85					.01
10.40	6%	8%	9%		1 1/2
11.095	.975	1.47			.04
10.85					.01

DECISION #PA78-3015 - Mod. #3
(43 FR 20697 - May 12, 1978)
Greene, Somerset & Potter
Counties, Pennsylvania

FEDERAL REGISTER, VOL. 43, NO. 195—FRIDAY, OCTOBER 6, 1978

DECISION #PA78-3043 - Mod. #2 (43 FR 20707 - May 12, 1978) Elk, Forest, McKean & Warren Counties, Pennsylvania	Fringe Benefits Payments				
	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appl. Tr.
Change: Bricklayers & Stonemasons Zone 2 - Forest Co. Carpenters & Soft Floor Layers Zone 1 - Elk, Forest, all of McKean County except Kane and Bradford Ironworkers Zone 1 - Forest and Warren Cos. Zone 2 - Elk & McKean Cos. Plumbers & Steamfitters: Zone 2 - Forest County only Zone 3 - McKean and Warren Counties Contracts under \$500.00 Contracts over \$500.00	\$11.40	.75	.95		.05
	10.40	.64	.84	.94	.14
	11.59	1.86	1.01		.15
	11.095	.975	1.47		.04
	11.50	.65	1.00		.10
	8.75	.68	.55		.04
	12.12	.68	.55		.04

DECISION #PA78-3054 - Mod. #1 (43 FR 35868 - August 11, 1978) Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pennsylvania	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation and/or Appr. Tr.
Change: Truck Drivers				
Class I	\$ 8.545	.7675	.775	a+b
Class II	8.645	.7675	.775	a+b
Class III	8.845	.7675	.775	a+b
Add: Cement Masons	10.00	1.94	1.85	
Unit: Tunnel Compressed Air				
Laborers:				
Blasters, shield drivers	48.29	.10	.10	
Miners	46.86	.10	.10	
Brakemen, trackmen, miners' helpers	44.74	.10	.10	
Groutmen, lock tenders' helpers	44.74	.10	.10	
Laborers and other men	44.74	.10	.10	
Mucking machines	52.83	.10	.10	
Laborers (surface)	4.05	.10	.10	
Between Locks				
Lock tenders, motor men	46.86	.10	.10	
All other men	44.75	.10	.10	
Outside of Locks				
Outside lock tenders, gauge tenders	44.74	.10	.10	
Outside lock tenders' helpers	42.64	.10	.10	
Air Pressure*	WORKING HOURS		AMOUNT IN ADDITION TO BASE RATE	(NOT CUMULATIVE)
	PER DAY			
15 pounds and up to 26 pounds	6 hours		\$1.00	
26 " " " 33 "	4 "		1.50	
33 " " " 38 "	3 "		2.00	
38 " " " 43 "	2 "		2.50	
43 " " " 48 "	1 1/2 "		3.00	
48 " " " 50 "	1 "		3.50	

DECISION NO. SD78-5001 - Mod. #1

(43 FR 3028 - January 20, 1978)
Statewide South Dakota

ADD:

LINE CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Group 1	\$10.53	.45	3%		1/2%
Group 2	8.46	.45	3%		1/2%
Group 3	7.04	.45	3%		1/2%
Group 4	6.46	.45	3%		1/2%

Group 1: Cable splicer; lineman; tractor dozer operator (D-4 and larger) all rigs erecting steel tower and "H" fixtures, also tension pulling machines

Group 2: Groundman - operating special equipment hole digging machines; aerial baskets on energized circuits; Tractors (D-4 and larger); transmission line pole hauling; all fifth wheel trucks and other setting and assembly equipment excluding steel tower and "H" fixture section.

Group 3: Groundman - truck or tractor driver (with winch); operators of trucks up to and including 2½ tons; tractor including D-2 and smaller, including wheel tractors and crawler tractors.

Group 4: Groundman - truck or tractor driver (without winch); operators of trucks up to and including 2½ tons D-2 and smaller, including wheel tractors and crawler tractors; groundmen

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
DECISION #TX78-4041 - Mod. #6 (43 FR 16133 - April 14, 1978) Lubbock County, Texas					
Change: Laborers - Group 1	\$ 5.525	.275	.27		
Group 2	5.80	.275	.27		
Group 3	5.725	.275	.27		
Group 4	5.875	.275	.27		
Group 5	6.125	.275	.27		
DECISION #TX78-4079 - Mod. #3 (43 FR 35884 - August 11, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change: Carpenters - Carpenters	8.19	.51	.35		.05
Cement masons	9.00				
Ironworkers	8.52	.55	1.15		.07
Soft floor layers	8.19	.51	.35		.05
Power Equipment Operators:					
Group 1	8.60	.32	.75		
Group 2	7.475	.32	.75		
Group 3	6.675	.32	.75		
Group 4	6.825	.32	.75		
DECISION #TX78-4080 - Mod. #4 (43 FR 35886 - August 4, 1978) Jefferson & Orange Cos., Texas					
Change: Sheet metal workers:					
Commercial	11.30	.45	.55		.11
DECISION #TX78-4081 - Mod. #2 (43 FR 36851 - August 18, 1978) Bexar County, Texas					
Change: Carpenters - Carpenters	9.24	.48	.50	.40	.05
Millwrights	9.54	.48	.50	.40	.05
Cement masons	9.45	.45	.65	.65	.02
Ironworkers	8.75	.55	1.15	.50	.07

NOTICES

DECISION #TX78-4082 - Mod. #1 (43 FR 38278 - August 25, 1978) Brazos County, Texas	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Change: Pipefitters Sheet metal workers	\$11.85 11.41	.50 .375	.70 .695	.42		.045 .06
DECISION #TX78-4083 - Mod. #2 (43 FR 38279 - August 25, 1978) El Paso County, Texas						
Change: Ironworkers Power Equipment Operators:	9.15	.55	1.15			.15
Group 1	7.44	.60	.60			.15
Group 2	8.02	.60	.60			.15
Group 3	8.11	.60	.60			.15
Group 4	8.46	.60	.60			.15
Group 5	8.54	.60	.60			.15
Group 6	8.98	.60	.60			.15
Group 7	9.14	.60	.60			.15
Group 8	8.61	.60	.60			.15
Group 9	8.84	.60	.60			.15
Group 10	9.14	.60	.60			.15
DECISION #TX78-4084 - Mod. #2 (43 FR 38281 - August 25, 1978) Galveston & Harris Cos., Texas						
Change: Pipefitters - that part of Galveston Co. west of the Trinity River & all of Harris Co. Sheet metal workers-Harris Co.	11.85 11.41	.50 .375	.70 .695	.42		.045 .06
DECISION #TX78-4085 - Mod. #1 (43 FR 38283 - August 25, 1978) Tarrant County, Texas						
Change: Bricklayers & stonemasons Cement masons Laborers - Group 1 Group 2 Group 3 Group 4 Plasterers	\$10.42 9.34 6.105 6.255 6.43 6.505 9.99	.50 .60 .275 .275 .275 .275 .60	.40 .55 .40 .40 .40 .55			.05 .02 .02 .02 .02 .02 .01
DECISION #TX78-4087 - Mod. #1 (43 FR 38285 - August 25, 1978) Armstrongs, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas						
Change: Ironworkers	9.95	.55	1.15			.10
DECISION #TX78-4088 - Mod. #2 (43 FR 38287 - August 25, 1978) Wichita County, Texas						
Change: Bricklayers & stonemasons	10.14		.60			.05
DECISION #TX78-4096 - Mod. #1 (43 FR 43242 - September 22, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas						
Change: Building Construction: Cement masons Plasterers Plumbers & pipefitters-Zone 1 Zone 2 Incidental Paving & Utilities (Bell & Coryell Cos.) Plumbers - Zone 1 Zone 2	9.34 9.99 9.50 9.90 9.50 9.90 9.50 9.90	.60 .60 .30 .30 .30 .30 .30 .30	.55 .55 .33 .33 .33 .33 .33 .33			.01 .03 .03 .03 .03 .03 .03 .03

SUPERSEDES DECISION

STATE: Florida
 DECISION NUMBER: FL78-1086
 Supersedes Decision No. FL76-1105 dated September 17, 1976 in 41 FR 40365
 DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

SUPERSEDES DECISION

COUNTIES: Brevard & Volusia
 DATE: Date of Publication
 DATE: 1976 in 41 FR 40365

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Air Conditioning Mechanic	6.17					
Bricklayers	7.00					
Carpenters	5.80					
Cement Mason	6.50					
Electricians	7.50					
Drywall Hanger	6.00					
Drywall Finisher	6.25					
Laborers	3.52					
Plasters	7.00					
Plumber & Pipefitters	6.47					
Roofers	5.76					
Sheet Metal Workers (Volusia Co.)	7.63	.55	.30	.50	.04	
Power Equipment Operators						
Front End Loader	5.00					
Grader	4.00					

STATE: Louisiana
 DECISION NO.: LA78-4099

Supersedes Decision No. LA78-4077, dated August 11, 1978, in 43 FR 35841.
 DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories) & Construction of Highways, Roads, Streets (does not include building structures in rest area projects) & Parking Area (except those let with a building contract). Building Construction includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies. It includes all construction of such structures, the installation of utilities & the installation of equipment, both above & below ground level, as well as excavation & foundation, includes site preparation & incidental paving & utilities outside the building.

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS - ZONE 1	\$11.47	.525	.90			.04
ZONE 2	10.43	.40	.76			.03
ZONE 3	10.00	.55	1.20			.05
ZONE 4	9.82	.45	.50			

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
 ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
 ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
 ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Pars.

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
BOILERMAKERS	10.55	.80	1.00			.02
BRICKLAYERS & STONEMASONS						
ZONE 1	10.39	.80	.75			.31
ZONE 2	9.90	.53				
ZONE 3	11.25	.53	.30			.02
ZONE 4	10.80	.45	.30			.035
ZONE 5	10.25					
ZONE 6	9.90	.40	.45			
ZONE 7	8.95		.30			
ZONE 8	10.40		.25			
ZONE 9	10.70					

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
 ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
 ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
 ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
 ZONE 5 - St. Tammany (north half including Covington north of Hwy. 190) & Washington Parishes
 ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
 ZONE 7 - Natchitoches & Sabine Parishes
 ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
 ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermillion Parishes

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
CARPENTERS (BUILDING CONSTRUCTION)						
<u>ZONE 1 - Carpenters</u>	9.35	.50				
Millwrights	10.07	.50				
Piledrivermen	10.25	.50				
<u>ZONE 2 - Carpenters, piledrivermen & soft floor layers</u>	10.05	.50	.33			.07
Millwrights	11.73					.07
<u>ZONE 3 - Carpenters</u>	10.10	.35	.30			
Millwrights	11.75	.35	.30			
Piledrivermen	10.40	.35	.30			
<u>ZONE 4 - Carpenters & piledrivermen</u>	11.00	.40	.50			.05
Millwrights	12.275					.08
<u>ZONE 5 - Carpenters & soft floor layers</u>	10.42	.50	.35			.04
Millwrights	10.81	.50	.35			.04
Piledrivermen	10.52	.50	.35			.04
<u>ZONE 6 - Carpenters & soft floor layers</u>	10.255	.50	.35			.04
Millwrights	10.81	.50	.35			.04
Piledrivermen	10.52	.50	.35			.04
<u>ZONE 7 - Carpenters & soft floor layers</u>	9.75					
Millwrights	10.50					
Piledrivermen	10.25					
<u>ZONE 8 - Carpenters & soft floor layers</u>	9.55	.40	.35			.04
Millwrights	10.30	.40	.35			.04
Piledrivermen	9.80	.40	.35			.04

DECISION NO. LA78-4099

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
ZONE 9 - Carpenters & soft floor layers	9.60					
Millwrights	10.35					
Piledrivermen	10.10					
ZONE 10 - Carpenters & soft floor layers	9.60	.55	.35			.05
Millwrights	10.50	.55	.35			.05
Piledrivermen	10.10	.55	.35			.05

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermillion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of the Atchafalaya River)
 ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
 ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
 ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Miss. River), West Baton Rouge & West Feliciana Parishes
 ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Parishes; Parts of St. Tammany & Tangipahoa (south of I-12 from the Miss. State Line to the western boundary of Tangipahoa Par.) Parishes
 ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes
 ZONE 7 - Avoyelles, Grant, LaSalle & Rapides Parishes
 ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
 ZONE 9 - Natchitoches & Sabine Parishes
 ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
CARPENTERS & PILEDRIVERMEN (HIGHWAY CONSTRUCTION) :						
ZONE 1	10.06					
ZONE 2	11.06					
ZONE 3	11.17					
ZONE 4	10.475					
ZONE 5	9.17					
ZONE 6	8.95					
ZONE 7	8.40					

ZONE 1 - Bossier & Caddo Parishes
 ZONE 2 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
 ZONE 3 - East Baton Rouge Parish
 ZONE 4 - Calcasieu Parish
 ZONE 5 - Lafayette, Ouachita & Rapides Parishes
 ZONE 6 - Acadia, Ascension, Bienville, Cameron, DeSoto, Iberia, Iberville, Jefferson Davis, Livingston, Red River, Richland, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Webster & West Baton Rouge
 ZONE 7 - Allen, Assumption, Avoyelles, Beauregard, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes.

CEMENT MASONS (BUILDING CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
ZONE 1	9.81					
ZONE 2	9.45					
ZONE 3	8.90	.50	.50			.05
ZONE 4	10.145	.45	.40			.04
ZONE 5	9.35					
ZONE 6	7.00					
ZONE 7	9.05	.35				
ZONE 8	9.12		.25			
ZONE 9	7.30		.30			

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
 ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
 ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
 ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
 ZONE 5 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
 ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
 ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
 ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
 ZONE 9 - Natchitoches & Sabine Parishes

CEMENT MASONS (HIGHWAY CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
ZONE 1	9.20	.45	.40			
ZONE 2	6.45					
ZONE 3	9.05	.35				
ZONE 4	9.40					
ZONE 5	8.90					
ZONE 6	8.40					
ZONE 7	8.90	.50	.50			.05
On concrete lined ditches	8.90					
ZONE 8	8.40					
On concrete lined ditches	8.90	.50	.50			.05
ZONE 9	6.30					
ZONE 10	5.72					

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
 ZONE 2 - Ascension, East Baton Rouge, U. S. Hwy. 61 in East Feliciana & West Feliciana Parishes.
 ZONE 3 - Bossier & Caddo Parishes
 ZONE 4 - Calcasieu Parish
 ZONE 5 - Cameron & Jefferson Davis Parishes
 ZONE 6 - Allen & Beauregard Parishes
 ZONE 7 - Acadia, Iberia, Lafayette, St. Landry, St. Martin & Vermilion Parishes
 ZONE 8 - St. Mary Parish
 ZONE 9 - Assumption, Avoyelles, Bienville, Claiborne, DeSoto, East Feliciana (excluding U.S. Hwy. 61), Evangeline, Iberville, Lafourche, Lincoln, Livingston, Madison, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, St. Helena, St. James, St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne, Vernon, Webster & West Baton Rouge Parishes
 ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Morehouse, Sabine, Tensas, Union, Washington, West Carroll & Winn Parishes.

ELECTRICIANS:	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation	Education and/or Appr. Tr.	
ZONE 1 - Electricians	12.30	.50	.80			3/100
Cable splicers	12.55	.50	.80			3/100
ZONE 2 - Electricians	11.35	.35	.30			.02
Cable splicers	12.05	.35	.30			.02
ZONE 3 - Electricians	13.05	.35	.30			1/100
Cable splicers	13.30	.35	.30			1/100
ZONE 4 - Electricians	12.30	.35	.30			2/100
Cable splicers	12.55	.35	.30			.03
ZONE 5 - Electricians	11.65	.35	.30			.03
Cable splicers	11.85	.35	.30			.03
ZONE 6 - Electricians	10.85	.65	.30			1/20
Cable splicers	11.35	.65	.30			1/20
ZONE 7 - Electricians	11.80	1.00	.30			1/20
Cable splicers	12.30	1.00	.30			1/20
ZONE 8 - Electricians	11.15	.30	.30			1/20
Cable splicers	11.40	.30	.30			1/20

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge, & West Feliciana Parishes
 ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
 ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes
 ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
 ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
 ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
 ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes
 ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, & West Carroll Parishes

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ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Parishes.

ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy. 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes

ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster Parishes

ZONE 5 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4 everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winfield, excluding Winfield) Parishes

ZONE 6 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Route 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ELEVATOR CONSTRUCTORS	9.76	.545	.35	48+a+b	.02	
	70&JR	.545	.35	48+a+b	.02	
	50&JR					
ZONE 2 - Mechanics	9.595	.745	.35	48+a+b	.02	
	70&JR	.745	.35	48+a+b	.02	
	50&JR					

FOOTNOTES FOR ELEVATOR CONSTRUCTORS

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate

b - Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the Friday after Thanksgiving Day; Christmas Day

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes.

ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
GLAZIERS - ZONE 1	10.15				.02	
ZONE 2	8.15				.01	
ZONE 3	10.225	.17	.30		.01	
ZONE 4	8.28		.30		.04	
ZONE 5	6.80					
ZONE 6	8.10					

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)

ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Parishes; Parts of Acadia, Evangeline, Lafayette, St. Landry, Vermilion Parishes. (east of a line drawn from the meeting point of the boundaries of the Parishes of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Parishes. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Parishes.

(south of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line, then west along the southern border of Rapides Par.)

ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Parishes; Parts of Bienville, Claiborne, Natchitoches & Winn Parishes. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Peason to the Tex.-La. border)

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
<u>IRONWORKERS</u> (BUILDING CONSTRUCTION)	10.76	.63	.35		.04	
	10.99	.45	.65		.04	
	10.75	.45	.90		.06	
	10.75	.45	.95		.06	
	8.80	.45	.85		.04	
	10.70	.35	.60		.05	

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ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Parishes; Parts of Bienville, Claiborne, Natchitoches & Winn Parishes. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & Lasalle Parishes. (north of a line drawn from Natchez through the city of Carter Point to the Rapides Par. Line)

ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)

ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermillion Parishes. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Parishes)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (HIGHWAY CONSTRUCTION)					
ZONE 1	11.22				
ZONE 2	8.70				
ZONE 3	10.80				
ZONE 4	10.66				
ZONE 5	8.95				
ZONE 6	8.40				
ZONE 7	6.99				
ZONE 8	6.45				
ZONE 9	5.84				

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes.

ZONE 2 - East Baton Rouge Parish

ZONE 3 - Calcasieu Parish

ZONE 4 - Bossier & Caddo Parishes

ZONE 5 - Cameron & Jefferson Davis Parishes

ZONE 6 - Allen & Beauregard Parishes

ZONE 7 - Lafayette, Ouachita & Rapides Parishes

ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par.), St. Tammany, Tangipahoa, Vermillion, Washington, Webster & West Baton Rouge Parishes.

ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (BUILDING CONSTRUCTION)					
ZONE 1 - Group 1	6.45	.15			
Group 2	6.60	.15			
Group 3	6.70	.15			
ZONE 2 - Group 1	6.32	.20	.10		.05
Group 2	6.52	.20	.10		.05
Group 3	7.80	.20	.10		.05
ZONE 3 - Group 1	7.90	.20	.10		.05
Group 2	7.95	.20	.10		.05
Group 3	8.76	.20	.10		.05
Group 4	8.32	.20	.10		.05
Group 5	8.16	.20	.10		.05
Group 6	7.85	.20	.10		.05
Group 7	7.12	.25	.27		.05
ZONE 4 - Group 1	7.22	.25	.27		.05
Group 2	7.27	.25	.27		.05
Group 3	7.27	.25	.27		.05
ZONE 5 - Group 1	6.72	.25	.27		.05
Group 2	6.82	.25	.27		.05
Group 3	6.87	.25	.27		.05
ZONE 6 - Group 1	7.65	.25	.27		.05
Group 2	7.75	.25	.27		.05
Group 3	7.90	.25	.27		.05
Group 4	7.81	.25	.27		.05
Group 5	7.91	.25	.27		.05
ZONE 7 - Group 1	7.325	.25	.27		.05
Group 2	7.475	.25	.27		.05
Group 3	7.525	.25	.27		.05
ZONE 8 - Group 1	5.91	.20	.10		.05
Group 2	6.11	.20	.10		.05
Group 3	6.16	.20	.10		.05
Group 4	6.21	.20	.10		.05
Group 5	6.56	.20	.10		.05
ZONE 9 - Group 1	6.50	.20	.10		.05
Group 2	6.60	.20	.10		.05
Group 3	6.65	.20	.10		.05
Group 4	6.70	.20	.10		.05
ZONE 10 - Group 1	6.25	.20	.10		.05
Group 2	6.35	.20	.10		.05
Group 3	6.50	.20	.10		.05

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction
 GROUP 2 - Stone mason helpers; mechanical tool operators; sewer men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over; tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers

GROUP 3 - Gunite tool operators

LABORERS - ZONE 2

GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman
 GROUP 2 - Mason mixer; plaster mixer; mechanical tool op.; sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers, hot pot & pipe layers); gas & oil pipeline laborers, wrappers & dopers

LABORERS - ZONE 3

GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners
 GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equipment

GROUP 3 - Mortar mixers

LABORERS - ZONE 4

GROUP 1 - Blasters

GROUP 5 - Blaster helpers; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker

GROUP 6 - Wiping joints, laying pipe & tile from pumpcrete

GROUP 7 - Interior of closed tanks & vessels manually

LABORERS - ZONES 4 & 5

GROUP 1 - Building and general laborers, carpenter tenders

GROUP 2 - Power tool ops. (hammer men, tamper, vibrators, power buggies, concrete chippers or cutters, chain saw ops., etc.); pipelayers (non-metallic)

GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)

LABORERS - ZONE 6

GROUP 1 - Building laborers

GROUP 2 - Laborers handling steel pans, stone masons helpers, mechanical tool ops., sewer men (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sand blaster (nozzlemen & pot tender); laying non-metallic pipe over 4 ft. deep, septic diggers & installers over 4 ft. deep, gas & oil pipeline laborers & wrappers

GROUP 3 - Gunite tool operators

GROUP 4 - Bricklayers tenders and mason tenders

GROUP 5 - Hod carriers using prime mover to serve a bricklayer; mortar mixers

LABORERS - ZONE 7

GROUP 1 - Common laborers

GROUP 2 - Jackhammer men, sewer men, mason tenders, plaster tenders, stone masons helpers, vibrators

GROUP 3 - Mortar mixers

LABORERS - ZONE 8

GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); plasterers tenders; stone masons helpers; concrete workers; scaffold builders
 GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)

GROUP 3 - Chain saw operator

GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster helpers

GROUP 5 - Powderman

LABORERS - ZONE 9

GROUP 1 - Building laborers

GROUP 2 - Mason tenders, plaster tenders; asphalt rakers, asphalt smoothers

GROUP 3 - Mortar mixers

GROUP 4 - Air jack op., vibrator ops.; sewer pipelayers, sewer pipe wrappers

LABORERS - ZONE 10

GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters,

plasterers, stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artificial stone; building scaffolds; shoring

GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers;

mortar mixers (hand or machine); gunite op.; tile, terrazzo & marble setters helpers

GROUP 3 - Pipe dopers & burners

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlinton), Tangipahoa (all but southwestern corner) & Washington Parishes

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Parish to the Calumet Locks west) & Vermilion Parishes

ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, East Feliciana, Iberville, Pointe Coupee,

ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee,

West Baton Rouge & West Feliciana Parishes; Parts of Assumption, St. James, St. John the

Baptist Parishes. (north of a line drawn from the southern limits of the town of St. James

in St. James Par. to the northern limits of the town of Napoleonville in Assumption

Par. & then directly west to the Par. line, all of St. James Par. except that part

which is east of a line drawn from Lusher to U. S. Hwy 61 (Airline Hwy). then

west on U. S. 61 to Blind River & on a direct line to Manchac)

ZONE 5 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the

western Par. line to a point directly east which touches the northern limits of the

town of Independence, then directly south to Lake Pontchartrain) Parishes

ZONE 6 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles,

St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the

Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lusher &

north to Blind River & Manchac & St. Tammany (north as far as Bayou Lacombe, east to th

Miss. State Line at Pearlinton) Parishes

ZONE 7 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche,

St. James (on the west bank & including the town of Vacherie), St. Mary (that part

of Parish to the Calumet Locks west) & Terrebonne Parishes

ZONE 8 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes

ZONE 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster

Parishes.

ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln,

Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes.

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GROUP 1 - Laborers, including but not limited to signalman, foundation driller & demolishing & dismantling man

GROUP 2 - Raker, concrete spreader, carpenter helpers, distributor man, finisher helpers, formsetter helpers, jackhammer op.; jetting laborer, painter helpers, pit man, pipelayer or tile layer, power monkey helper, tamper, tree pruner, stone mason helpers, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.

GROUP 3 - Formsetter, head or master-high type pavement

GROUP 4 - Powderman

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes

ZONE 2 - East Baton Rouge Parish

ZONE 3 - Bossier & Caddo Parishes

ZONE 4 - Calcasieu Parish

ZONE 5 - Cameron & Jefferson Davis Parishes

ZONE 6 - Allen & Beauregard Parishes

ZONE 7 - Lafayette, Ouchita & Rapides Parishes

ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (that portion north of Iberia Par.), St. Tammany, Tangipahoa, Vermilion, Washington, Webster & West Baton Rouge Parishes

ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (that portion south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LATHERS					
ZONE 1	9.48	.20	.30		.05
ZONE 2	9.63	.20	.30		.05
ZONE 3	9.88	.20	.30		.05
ZONE 4	10.23	.20	.30		.05
ZONE 5	10.07				.01
ZONE 6	8.90				.01
ZONE 7	10.585	.30			.01
ZONE 8	10.75				.01
ZONE 9	9.05				.01

ZONE 1 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes, which are 12.5 miles from center of New Orleans

ZONE 2 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes, which are within a 22.5 mile radius of New Orleans center.

ZONE 3 - That part of Jefferson, Lafourche (except that area southeast of Raceland to Bayou Lafourche), Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Tangipahoa Parishes, which are within a 32.5 mile radius of New Orleans center

ZONE 4 - That part of Jefferson, Lafourche (including that area southeast of Raceland to Bayou Lafourche), Livingston (westward to Rt. 22 including towns of Maurepas, Killian & Springfield), Plaquemines, St. Bernard, St. James (including towns of Gramercy, Lusher & Paulina), St. Tammany, Tangipahoa (northward to Rt. 16 including towns of Amite & Holton), Terrebonne (westward to Rts. 24 & 315 including city of Houma) & Washington (only northward to Rt. 10 to southern limits of towns of Bogalusa, Sheridan & Franklinton) Parishes, which are within a 32.5 mile radius of New Orleans center

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LABORERS (HIGHWAY CONSTRUCTION)

GROUP 1 - Zone 1

Zone 2

Zone 3

Zone 4

Zone 5

Zone 6

Zone 7

Zone 8

Zone 9

Zone 1

Zone 2

Zone 3

Zone 4

Zone 5

Zone 6

Zone 7

Zone 8

Zone 9

Zone 1

Zone 2

Zone 3

Zone 4

Zone 5

Zone 6

Zone 7

Zone 8

Zone 9

Zone 1

Zone 2

Zone 3

Zone 4

Zone 5

Zone 6

Zone 7

Zone 8

Zone 9

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Zone 1	6.33	.25	.27		.05
Zone 2	4.80	.15	.10		.05
Zone 3	5.76	.25	.14		.05
Zone 4	6.46	.25	.14		.05
Zone 5	5.56	.25	.14		.05
Zone 6	5.36	.25	.14		.05
Zone 7	4.10	.15	.10		.05
Zone 8	3.85	.15	.10		.05
Zone 9	3.75	.15	.10		.05
Zone 1	6.43	.25	.27		.05
Zone 2	4.90	.15	.10		.05
Zone 3	5.86	.25	.14		.05
Zone 4	6.56	.25	.14		.05
Zone 5	5.66	.25	.14		.05
Zone 6	5.46	.25	.14		.05
Zone 7	4.20	.15	.10		.05
Zone 8	3.95	.15	.10		.05
Zone 9	3.85	.15	.10		.05
Zone 1	6.88	.25	.27		.05
Zone 2	5.35	.15	.10		.05
Zone 3	6.31	.25	.14		.05
Zone 4	7.01	.25	.14		.05
Zone 5	6.11	.25	.14		.05
Zone 6	5.91	.25	.14		.05
Zone 7	4.65	.15	.10		.05
Zone 8	4.40	.15	.10		.05
Zone 9	4.30	.15	.10		.05
Zone 1	7.13	.25	.27		.05
Zone 2	5.60	.15	.10		.05
Zone 3	6.56	.25	.14		.05
Zone 4	7.26	.25	.14		.05
Zone 5	6.31	.25	.14		.05
Zone 6	6.11	.25	.14		.05
Zone 7	4.85	.15	.10		.05
Zone 8	4.60	.15	.10		.05
Zone 9	4.50	.15	.10		.05

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ZONE 5 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, (except lower Grand River), Livingston (western part), Pointe Coupee, St. Helena, St. James (only towns of Union, Hymel, Convent & Lusher), St. Martin (only lower separated section), St. Mary (only Morgan City), Tangipahoa (north of Rt. 16 & west of Rt. 51 including Amite, Hammond & Ponchatoula), Washington (only north of Rt. 16 & west of Rt. 25), West Baton Rouge & West Feliciana Parishes.

ZONE 6 - Acadia, Evangeline (northward to Rt. 10 including Ville Platte and Mamou), Iberville (eastward to lower Grand River), Lafayette, St. Landry, St. Martin (excluding lower separated section), St. Mary (east to Berwick) & Vermilion Parishes.

ZONE 7 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (excluding Ville Platte & Mamou), Jefferson Davis & Vernon (west of Rt. 117 & north of Rt. 8) Parishes.

ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Morehouse, Red River & Webster Parishes.

ZONE 9 - Avoyelles, Caldwell, Catahoula, Concordia, Franklin, Grant, LaSalle, Morehouse, Ouachita, Rapides, Richland, Vernon (except west of Rt. 117 & north of Rt. 8) & Winn Parishes

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
11.65	.35	38+.30			.03
75KJR	.35	38+.30			.03
65KJR	.35	38+.30			.03
45KJR	.35	38+.30			.03
50KJR	.35	38+.30			.03

LINE CONSTRUCTION

ZONE 1 - GROUP 1

GROUP 2

GROUP 3

GROUP 4

GROUP 5

GROUP 1 - Linemen

GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derrick working bot lines

GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)

GROUP 4 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 5 - Groundmen (1 1/2 yrs. service or over)

GROUP 6 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 7 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 8 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 9 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 10 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 11 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 12 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 13 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 14 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 15 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 16 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 17 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 18 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 19 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 20 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 21 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 22 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 23 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 24 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 25 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 26 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 27 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 28 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 29 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 30 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 31 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 32 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 33 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 34 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 35 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 36 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 37 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 38 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 39 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 40 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 41 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 42 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

GROUP 43 - Op. using truck without winch; Groundmen (starting rate to 1 1/2 yrs. service)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
11.80	1.00	38			18
12.30	1.00	38			18
9.70	1.00	38			18

ZONE 7 - Linemen; Operators

Cable splicers

Groundmen

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes.

ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes.

ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Parishes.

ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes.

ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes.

ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes.

ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Parishes.

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
10.80	.45	.30			.035
9.10	.25				
6.75	.25				.02
11.25	.53	.30			.02
8.30	.48	.30			
10.70					
8.75		.25			
9.37					
8.85	.30				
12.00					
6.75	.25				
10.25					
6.75	.25				

MARBLE, TILE & TERRAZZO WORKERS & FINISHERS

ZONE 1 - Marble setters

Tile & terrazzo workers

Marble, tile & terrazzo finishers

workers

ZONE 2 - Marble & terrazzo

workers

Tile setters

Marble setters

Terrazzo workers

ZONE 3 - Marble, tile & terrazzo

workers

Marble, tile & terrazzo

workers

ZONE 4 - Marble, tile & terrazzo

workers

Marble, tile & terrazzo

workers

ZONE 5 - Marble, tile & terrazzo

workers

Marble, tile & terrazzo

workers

ZONE 6 - Marble, tile & terrazzo

workers

Marble, tile & terrazzo

workers

ZONE 7 - Tile setters

finishers

Tile finishers

finishers

Tile finishers

finishers

Tile finishers

finishers

Tile finishers

finishers

Tile finishers

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ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Tallisheek & on a line due east from Tallisheek to the Miss. State Line) & Terrebonne Parishes

ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Parishes

ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Par.

ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Par.

ZONE 7 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Par.

PAINTERS	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Fr.
		H & W	Pensions	Vocational	
ZONE 1 - GROUP 1	10.685		.10		
GROUP 2	10.885		.10		
GROUP 3	11.03		.10		
GROUP 4	12.475		.10		
ZONE 2 - GROUP 1	9.35		.25		.05
GROUP 2	10.32		.25		.05
ZONE 3 - GROUP 1	8.965	.425	.40		.06
GROUP 2	9.34	.425	.40		.06
GROUP 3	10.215	.425	.40		.06
ZONE 4 - GROUP 1	8.10				
GROUP 2	8.40				
GROUP 3	8.15				
GROUP 4	9.00				
GROUP 5	9.25				
GROUP 6	8.55				
GROUP 7	8.40				
ZONE 5 - GROUP 1	8.50				
GROUP 2	9.00				
GROUP 3	9.50				
ZONE 6 - Painters, tape & float, vinyl & paperhangers	9.20	.40	.30		.05
ZONE 7 - GROUP 1	7.30				
GROUP 2	8.30				
GROUP 3	7.80				

ZONE 1 - GROUP 1 - Painters brush, roller & buffer
 GROUP 2 - Paperhanging, taping & floating
 GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing, & pyroflexing, steam jennies, taping & floating machines
 GROUP 4 - Bridge work, water towers, radio & TV towers

ZONE 2 - GROUP 1 - Brush, taping; floating & texture
 GROUP 2 - Sandblasting, industrial & steel
 GROUP 3 - Painters, paperhangers & sheetrock tapers & floaters
 GROUP 4 - Structural steel painters of new buildings under construction; the following overall of 30 ft.; tanks, airconditioning, towers, smoke stacks sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter

ZONE 3 - GROUP 1 - Industrial
 GROUP 2 - Brush swing stage
 GROUP 3 - Brush industrial
 GROUP 4 - Spray; spray steel; sandblasting
 GROUP 5 - Spray swing stage
 GROUP 6 - Paperhanger
 GROUP 7 - Sheetrock finishers

ZONE 4 - GROUP 1 - Painters, paperhangers, tapers, floaters; commercial steel, such as churches or any commercial building with closed roof deck or walls
 GROUP 2 - Other commercial work brush spray, stage, window jacks, flagpoles & steeple work
 GROUP 3 - All industrial work including sandblasting or power tools of any kind

ZONE 5 - GROUP 1 - Painters, paperhangers, tapers, floaters
 GROUP 2 - Stage, window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack, sign, tank painting, steeple jack
 GROUP 3 - Structural steel brush

ZONE 6 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
 ZONE 7 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22) East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermillion, West Baton Rouge & West Feliciana Par.
 ZONE 3 - Ascension (south of Hwy 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
 ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

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ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes

ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine & Webster Parishes

ZONE 7 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll (western 2/3, everything west of Rt. 65 inclusive), Franklin, Jackson, Lincoln, Madison (western half, everything west of Rt. 65 inclusive), Morehouse, Ouachita, Richland, Tensas (west 3/4, everything west of Rt. 65), Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winnfield, excluding Winnfield) Parishes

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS - ZONE 1	9.70				.01
ZONE 2	9.00				
ZONE 3	10.07				
ZONE 4	9.75				.01
ZONE 5	7.05	.30	.20		.03
ZONE 6	7.00				.01
ZONE 7	9.75			1.00	
ZONE 8	10.40		.25		
ZONE 9	8.95		.30		

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes.

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes.

ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes.

ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes

ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes.

ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes.

ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes.

ZONE 9 - Natchitoches & Sabine Parishes

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS - ZONE 1	11.00	.45	.75		.08
ZONE 2	10.85	.64	.875		.06
ZONE 3	10.65	.50	.55		.10
ZONE 4	10.54		.60	.95	.09
ZONE 5	11.97	.67	.72		.08

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes.

ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/3 of Par.), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 2/3 of Par.), St. Martin (southern part of eastern 1/3 of Par.), St. Mary, West Baton Rouge & West Feliciana Parishes.

ZONE 3 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Hwy. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anaacoco through Bellwood), Ouachita, Rapides, Richland, Tensas, Union, Vernon (northeast of Hwy. 10), West Carroll & Winn Parishes

ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes; Parts of Natchitoches & Vernon Parishes. (northwest from a line drawn from Natchitoches to Anaacoco through Bellwood & north of Hwy. 111 between Anaacoco & Haddens)

ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western 1/3 of Par.) Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermillion Parishes.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)	7.19	.55	.48		.05
ZONE 1 - GROUP 1	7.55	.65	.48		.05
GROUP 2	7.88	.65	.48		.05
GROUP 3	7.97	.65	.48		.05
GROUP 4	8.29	.65	.48		.05
GROUP 5	9.77	.65	.48		.05
GROUP 6	7.59	.65	.48		.05
ZONES 2, 3 & 4 - GROUP 1	7.95	.65	.48		.05
GROUP 2	8.31	.65	.48		.05
GROUP 3	8.37	.65	.48		.05
GROUP 4	8.73	.65	.48		.05
GROUP 5	10.27	.65	.48		.05
GROUP 6			.48		.05

	Basic Hourly Rates	Fringe Benefits Payments			Education and or Appr. Tr.
		H & W	Pensions	Vacation	
ZONE 5 -					
GROUP 1	7.43	.65	.48		.05
GROUP 2	7.11	.65	.48		.05
GROUP 3	6.90	.65	.48		.05
GROUP 4	7.71	.65	.48		.05
GROUP 5	10.095	.65	.48		.05
GROUP 6	8.12	.65	.48		.05
GROUP 7	8.80	.65	.48		.05
ZONE 6 -					
GROUP 1	8.01	.65	.48		.05
GROUP 2	7.41	.65	.48		.05
GROUP 3	7.20	.65	.48		.05
GROUP 4	7.71	.65	.48		.05
GROUP 5	8.45	.65	.48		.05
GROUP 6	9.62	.65	.48		.05
GROUP 7	10.73	.65	.48		.05
GROUP 8	10.98	.65	.48		.05
GROUP 9	11.23	.65	.48		.05
GROUP 10	11.48	.65	.48		.05
ZONE 7 -					
GROUP 1	10.33	.65	.65		.05
GROUP 2	10.58	.65	.65		.05
GROUP 3	7.50	.65	.65		.05
GROUP 4	7.89	.65	.65		.05
GROUP 5	8.65	.65	.65		.05
GROUP 6	10.08	.65	.65		.05

POWER EQUIPMENT OPERATORS - ZONES 1, 2, 3 & 4 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Oiler

GROUP 2 - Mechanic helper

GROUP 3 - Oiler-Driver

GROUP 4 - Scaleman

GROUP 5 - Air compressor; asphalt plant; bulldozers, D-4 & equivalent & under; bullfloats; concrete spreader; finishing machines; concrete mixer (16-s or less); concrete saw; distributors (bitum surface); dowel bar machine; farm-type tractor (with all attachments except backhoe); fireman; fork lifts (other than setting steel, machinery or pipe); hoist, 1 drum less than 4 stories; Kolum buff machine; pull cats; pump (3" & over); pump, concrete (under 6"); rollers, except on asphalt or brick; straddle buggies; sweepers on streets & roads (motorized); winch truck, A-frame (other than handling steel or pipe)

GROUP 6 - Asphalt spreader; backhoe; bulldozer, over D-4 & equivalent; cableways; draglines; fork lifts (setting steel, machinery or pipe); front end loaders (except farm-type tractors); grease serviceman; hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); hoist, 2 drums & over; hydro lifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoops; scrapers; sideboom cats; shovels; tractor-trailers; welder, journeyman; well point system; winch cats (hoisting); winch truck, A-frame (handling steel or pipe)

POWER EQUIPMENT OPERATORS - ZONE 5

GROUP 1 - Scale op.; oiler-driver on motor crane; batch plant

GROUP 2 - Pumps under 3 inch suction; mechanic helper

GROUP 3 - Oiler

GROUP 4 - Fireman

GROUP 5 - Combination oiler-compressor; combination oiler-fireman; asphalt spreaders; backhoe (all types); bulldozers; cableways; cherry pickers (all types); concrete mixers (over 1 sack); cranes; deck winch (2 drums or over); derricks; ditching or trenching machines (riding type); draglines; dredges; fork lifts (other than farm type); outside warehouses; foundation d'fill; front end loaders (except farm type); grease serviceman; hoist-1 drum (4 stories or more on buildings); hoist-1 drum (over 40 ft. on structures other than buildings); hoist (2 drums or over); locomotives (all types); mechanic; mixer plant-central mix; motor patrols; piledrivers; pull cat; pumpcrete-8" & over discharge; push cat; road pavers; rollers (plant mix asphalt); scrapers; shovels; sidebooms; unit op.; welder, journeyman; well point system; whirleys; winch cats (Cat D-4 & over); winch truck with A-frame (5 ton & over); work boats-requiring licensed op.

GROUP 6 - Bush hog; compressor; concrete pump-under 6" discharge; concrete saw; deck winch (1 drum); distributors; ditching or trenching machines (non-riding type); dowel bar machine; farm-type tractors (when used to pull discs, grass-cutters, etc.); hoist-1 drum (under 4 stories on building); hoist-1 drum (40 ft. or under on structures other than buildings); Kolum buff machines; mixers (1 sack & under); motorized street sweepers self-propelled; pump (3" & over); test pump-internal combustion engine powered; water blast pumps

GROUP 7 - Asphalt plant; boom trucks; bullfloats; concrete spreader; farm-type front end loaders; finishing machines (roadway, riding type); roller (other than plant mix asphalt); straddle buggies; winch truck with A-frame (under 5 tons); workboat-not requiring licensed operator

POWER EQUIPMENT OPERATORS - ZONE 6

GROUP 1 - Snatch cat; pumps, 3 inch suction or more

GROUP 2 - Pumps, under 3 inch suction; mechanic helper

GROUP 3 - Oiler

GROUP 4 - Batch plant operator

GROUP 5 - Air compressor; asphalt plant engineer; blade grader; distributor (bitum surface); finishing machine (concrete, paving); hoist-1 drum, less than 4 stories; concrete mixer under 16S; Oiler driver; pumpcrete; street & road sweeper; roller (except on asphalt or brick); roller, asphalt or brick (under 5 tons); post-hole digger; tractor operated bush hog & similar grass or bush cutting equipment

GROUP 6 - A-frame truck; crew boat op.; fireman; fork lift; straddle buggy; transvator; scoopmobile & similar front-end loading equipment with scoop or bucket under 1 cu. yd. capacity; locomotive; well point system; unit op.; hoist-1 drum, 4 stories or over

GROUP 7 - Backhoe; cableway; concrete mixer, 16S & up; derrick; crane; drag-line; dredge; equipment maintenance mechanic; hoist-2 drums; locomotive crane; paving mixer; piledriver; road paver; roller on asphalt or brick (5 tons or over); shovel; sideboom cats; bulldozer; motor patrol; scraper; hydro lift crane; hydro lift truck, yard crane, cherry picker, etc.; foundation, boring & reaming machine; cement stabilizer; trenching machine; asphalt spreader; transvator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; tug boat op.; turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; concrete pump (not pumpcrete)

GROUP 8 - Crane, 60 tons & over; crane, boom 100 ft. & over; piledriver, leads 100 ft. & over

GROUP 9 - Crane, 100 tons & over; crane, boom 150 ft. & over; piledriver leads 150 ft. & over

GROUP 10 - Crane, boom 250 ft. & over; piledriver, leads over 250 ft.

POWER EQUIPMENT OPERATORS - ZONE 7

GROUP 1 - Assistant master mechanic

GROUP 2 - Master mechanic

GROUP 3 - Oilers

GROUP 4 - Batch plant op.; mechanic helpers; oilers (drivers)

GROUP 5 - A-frame truck, except when working with ironworkers or pipefitters; air compressors; asphalt plant engineers; asphalt finisher, screed men; blade graders; boat op.; bulldozers, concrete joining machines; concrete mixers, 16 cu. yd. capacity; concrete spreader; crushers; deck winch (1); distributors, asphalt "Ditch Witch" & similar equipment; electric elevators (inside); finishing machine; fireman; form grader; fork lifts; hoist, 1 drum, under 4 stories; power subgrader; pug mill; pull tractor; pump, pumpcrete; rollers, except on brick & asphalt; rubber tired front end loaders (with or without blade attachments) less than 1 cu. yd. capacity; scale op.; scoopmobile; snatch cats; spray machines; stabilizers, less than 3 drums; straddle buggy; track machines & equivalent machines; tractors or bulldozers smaller than D-6

GROUP 6 - A-frame truck, when working with ironworkers & pipefitters; bulldozers D-6 & larger; cableways; concrete mixers, over 16 cu. yd. capacity; cranes, derricks; draglines & clam shells; deck winches (2); gradealls; hi-bo & similar type equipment; hoist, 1 drum, 4 stories & over; hoist, 2 drums or more, hydro cranes; mechanic; motor patrols; piledrivers; rollers on brick & asphalt; rubber tired front end loader, with or without attachments, 1 cu. yd. capacity or more; scrapers; shovels; backhoes (all types); sideboom cats; stabilizers, 3 drums or more; traxcavators; trenching machines; unit op.; welder, journeymen; well point systems (gas, diesel, electric, etc.); concrete pump-boom combinations

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine & St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes. (west of a line drawn from the city of Berwick to the Junction of Iberville-St. Landry Parishes border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Parishes; Parts of Assumption & St. James Parishes. (northwest of a straight line drawn from the city of Berwick to the city of Lusher); Parts of Iberia & southern & northern St. Martin Parishes. (east & west of a line from the city of Berwick north to the eastern boundary of the city of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Parishes. (west of a line drawn north from the city of Lusher to the east side of the city of Hammond to the La-Miss. border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Parishes; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Parishes. (that portion of southeastern La. bounded on the north by the State of Miss., on the east by the State of Miss. & the Miss. Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the La-Miss. boundary in Washington Par., due north of the town of Backley, thence southwesterly in a straight line to a point on the east bank of the Miss. River at the southernmost point of Lusher (including Gramercy in the area), thence in a more southeasterly direction in a straight line to the stream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to Atchafalaya Bay & in a line due south to the Gulf of Mexico)

NOTICES

POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
GROUP 1 - ZONE 1	9.96	.65	.65	.65	.05
ZONE 2	8.31	.25	.39	.39	.05
ZONE 3	9.43	.65	.65	.65	.05
ZONE 4	9.61	.65	.65	.65	.05
ZONE 5	7.65	.55	.65	.65	.05
ZONE 6	7.15	.65	.65	.65	.05
ZONE 7	6.69	.25	.30	.30	.05
ZONE 8	6.14	.25	.30	.30	.05
ZONE 9	5.30	.25	.30	.30	.05
GROUP 2 - ZONE 1	10.21	.65	.65	.65	.05
ZONE 2	8.56	.25	.39	.39	.05
ZONE 3	9.68	.65	.65	.65	.05
ZONE 4	9.86	.65	.65	.65	.05
ZONE 5	7.90	.65	.65	.65	.05
ZONE 6	7.40	.65	.65	.65	.05
ZONE 7	6.94	.25	.30	.30	.05
ZONE 8	6.39	.25	.30	.30	.05
ZONE 9	5.78	.25	.30	.30	.05
GROUP 3 - ZONE 1	9.71	.65	.65	.65	.05
ZONE 2	8.06	.25	.39	.39	.05
ZONE 3	9.18	.65	.65	.65	.05
ZONE 4	9.36	.65	.65	.65	.05
ZONE 5	7.40	.65	.65	.65	.05
ZONE 6	6.90	.65	.65	.65	.05
ZONE 7	6.44	.25	.30	.30	.05
ZONE 8	5.89	.25	.30	.30	.05
ZONE 9	5.28	.25	.30	.30	.05
GROUP 4 - ZONE 1	8.46	.65	.65	.65	.05
ZONE 2	7.13	.25	.39	.39	.05
ZONE 3	8.13	.65	.65	.65	.05
ZONE 4	8.14	.65	.65	.65	.05
ZONE 5	6.43	.65	.65	.65	.05
ZONE 6	5.93	.65	.65	.65	.05
ZONE 7	5.58	.25	.30	.30	.05
ZONE 8	5.02	.25	.30	.30	.05
ZONE 9	4.46	.25	.30	.30	.05
GROUP 5 - ZONE 1	8.11	.65	.65	.65	.05
ZONE 2	6.39	.25	.39	.39	.05
ZONE 3	7.54	.65	.65	.65	.05
ZONE 4	7.53	.65	.65	.65	.05
ZONE 5	5.91	.65	.65	.65	.05
ZONE 6	5.41	.65	.65	.65	.05
ZONE 7	5.02	.25	.30	.30	.05
ZONE 8	4.48	.25	.30	.30	.05
ZONE 9	3.97	.25	.30	.30	.05

NOTICES

DECISION NO. LA78-4099

DECISION NO. LA78-4099

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
7.20	.65	.65		.05
5.71	.25	.39		.05
6.59	.65	.65		.05
6.59	.65	.65		.05
5.09	.65	.65		.05
4.59	.65	.65		.05
5.11	.25	.30		.05
4.56	.25	.30		.05
4.06	.25	.30		.05

GROUP 10 - ZONE 1
 ZONE 2
 ZONE 3
 ZONE 4
 ZONE 5
 ZONE 6
 ZONE 7
 ZONE 8
 ZONE 9

GROUP 1 - 60 ton crane & over; crane with 125' boom
 GROUP 2 - Crane with 175' boom
 GROUP 3 - Crane all types; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point systems; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber-tired or track other than farm-type; scoops; motor patrol; gradall; rollers on hot mix; asphalt paving machines; front end loaders, other than farm-type, 1 cu. yd. or over; shovels & backhoes, all types & equivalent equipment; pilledrivers; sideboom cats; A-frame trucks when handling steel or pipe; work boats requiring licensed ops.; tugboats; fork lifts over 10 ton capacity; foundation drilling machines

GROUP 4 - 2 drums stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; tow tractor (crawler type); 1 drum hoist under 40 vertical ft.; fireman; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent; bullfloats & equivalent; job grease man; unit op.; work boats not requiring licensed ops.; inboard motored crew boats
 GROUP 5 - Single drum stabilizers; concrete mixer under 1 yd.; spray curing machines; rollers on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher ops.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pump crete; electric elevator (inside); oiler-driver; farm-type; rubber-tired tractor, with attachments, except backhoes; kolum buff & similar equipment; fork lifts, 10 ton capacity & under; outboard crew boats
 GROUP 6 - Mechanic helper; batch plant operator
 GROUP 7 - Oiler
 GROUP 8 - Fireman
 GROUP 9 - Fireman operating steam valve

GROUP 10 - Oiler on crane using air to drive piles

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes

ZONE 2 - Ascension, East Baton Rouge, Iberville & West Baton Rouge Parishes

ZONE 3 - Bossier & Caddo Parishes

ZONE 4 - Calcasieu Parish

ZONE 5 - Cameron, Jefferson Davis & Red River Parishes

ZONE 6 - Allen & Beauregard Parishes

ZONE 7 - Lafayette, Ouachita & Rapides

ZONE 8 - Acadia, Bienville, DeSoto, Iberia, Livingston, Richland, St. James, St. John the Baptist, St. Landry, St. Martin (north of Iberia Par.), St. Tammany,

Tangipahoa, Vermilion, Washington & Webster Parishes

ZONE 9 - Assumption, Avoyelles, Calcasieu, Catahoula, Claiborne, Concordia,

East Carroll, East Feliciana, Iberville, Franklin, Grant, Jackson, Lafourche,

LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine,

St. Helena, St. Martin, Iberville & Iberia Par., St. Mary, Tensas, Terrebonne,

Union, Vernon, West Carroll, & Winn Parishes

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
7.26	.65	.65		.05
5.75	.25	.39		.05
6.68	.65	.65		.05
6.68	.65	.65		.05
5.13	.65	.65		.05
4.63	.65	.65		.05
4.86	.25	.30		.05
4.31	.25	.30		.05
3.81	.25	.30		.05
6.95	.65	.65		.05
5.46	.25	.39		.05
6.34	.65	.65		.05
6.34	.65	.65		.05
4.84	.65	.65		.05
4.34	.65	.65		.05
4.86	.25	.30		.05
4.31	.25	.30		.05
3.81	.25	.30		.05
8.13	.65	.65		.05
7.13	.25	.39		.05
7.98	.65	.65		.05
7.99	.65	.65		.05
6.33	.65	.65		.05
5.83	.65	.65		.05
5.58	.25	.30		.05
5.02	.25	.30		.05
4.46	.25	.30		.05
8.56	.65	.65		.05
7.38	.25	.39		.05
8.23	.65	.65		.05
8.24	.65	.65		.05
6.58	.65	.65		.05
6.08	.65	.65		.05
5.83	.25	.30		.05
5.27	.25	.30		.05
4.71	.25	.30		.05

GROUP 6 - ZONE 1
 ZONE 2
 ZONE 3
 ZONE 4
 ZONE 5
 ZONE 6
 ZONE 7
 ZONE 8
 ZONE 9
 ZONE 1
 ZONE 2
 ZONE 3
 ZONE 4
 ZONE 5
 ZONE 6
 ZONE 7
 ZONE 8
 ZONE 9
 ZONE 1
 ZONE 2
 ZONE 3
 ZONE 4
 ZONE 5
 ZONE 6
 ZONE 7
 ZONE 8
 ZONE 9

DECISION NO. LA78-4099

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
SPRINKLER FITTERS	10.80	.75	1.05		.08
TRUCK DRIVERS (BUILDING CONSTRUCTION)					
ZONE 1 - GROUP 1	4.91				
GROUP 2	5.34				
GROUP 3	5.55				
GROUP 4	5.35				
GROUP 5	5.45				
GROUP 6	5.37				
GROUP 7	5.76				
GROUP 1	6.70				
GROUP 2	6.95				
GROUP 3	7.50				
GROUP 4	7.35				
GROUP 5	7.80				
GROUP 6	7.90				
GROUP 7	8.20				
GROUP 8	8.35				
ZONE 3 - GROUP 1	5.47				
GROUP 2	5.55				
GROUP 3	5.80				
GROUP 4	5.95				
GROUP 5	6.10				
GROUP 6	6.30				
GROUP 7	6.65				
GROUP 1	7.80				
GROUP 2	8.10				
GROUP 3	8.25				
GROUP 4	8.45				
GROUP 5	8.60				
GROUP 6	8.40				

DECISION NO. LA78-4099

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ROOFERS					
ZONE 1 - Roofers	10.03		.20		
ZONE 2 - Roofers	8.06	.70	.75	.28	.70
ZONE 3 - Roofers	9.06	.35	.60		.04
ZONE 4 - Roofers	8.30		.10		
Kettlemen	7.35		.10		
ZONE 5 - Roofers	9.35		.20		.04
Kettlemen	6.48		.20		.04
ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermillion & Vernon Parishes					
ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes					
ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes					
ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes					
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes					
SHEET METAL WORKERS - ZONE 1	11.47	.45	.55		.13
ZONE 2	11.00	34+.60	.91		.14
ZONE 3	11.70	.50	.80		.12
ZONE 4	10.14	37+.55	.40		.16
ZONE 1 - Calcasieu Parish					
ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes					
ZONE 3 - Acadia, Allen, Ascension, Assumption, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermillion, West Baton Rouge & West Feliciana Parishes					
ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes					

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DECISION NO. LA78-4999

- ZONE 1 - GROUP 1 - Teamsters, Pick-up drivers & chauffeurs
 GROUP 2 - Stake bodies (all sizes)
 GROUP 3 - Trucks trailer & dumps over 8 yds.; mixers on trucks over 3 yds.; Miss. wagons & Koehring dumpsters & similar dirt moving equipment, up to & incl. 8 yds.)
 GROUP 4 - Mixers on trucks up to including 3 yds.
 GROUP 5 - Winch trucks
 GROUP 6 - Trucks, dump
 GROUP 7 - Miss. wagons & Koehring dumpsters & similar dirt moving equip. over 8 yds
- ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
 GROUP 2 - Stake bodies (all sizes); platform dump
 GROUP 3 - Truck & trailer; dump
 GROUP 4 - Mixers on trucks, up to and including 3 yds
 GROUP 5 - Mixers over 3 yds.
 GROUP 6 - Winch trucks
 GROUP 7 - Miss. wagons & Koehring dumpsters, tandem dumps & similar dirt moving equipment, up to and including 8 yds.
 GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment, over 8 yds.
 GROUP 9 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
- ZONE 3 - GROUP 1 - Stake bodies; flat beds (all sizes)
 GROUP 2 - Stake bodies (all sizes)
 GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
 GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
 GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
 GROUP 6 - Euclids, lowboys, dempsey dumpsters, Koehring-dumps, 5 axle trucks, transit mix over 3 yds., fuel truck
 GROUP 7 - Fork lift
- ZONE 4 - GROUP 1 - Pick-ups
 GROUP 2 - Over 1 ton, up to but not including 3 tons
 GROUP 3 - 3 tons up to but not including 5 tons
 GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
 GROUP 5 - Larger trucks carrying capacity rear axles 50,000 lbs. & over
 GROUP 6 - Winch truck with A-frame when used for transporting material
 GROUP 7 - Allen, Besuregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.
 GROUP 8 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
 GROUP 9 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
- ZONE 5 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

Basic Hourly Rates	H & W	Fringe Benefits Payments			Education and/or Appr. Tr.
		Pensions	Vacation		
TRUCK DRIVERS (HIGHWAY CONSTRUCTION)					
GROUP 1 - ZONE 1	.45				6.63
ZONE 2					5.49
ZONE 3					6.81
ZONE 4					7.24
ZONE 5					5.92
ZONE 6					6.02
ZONE 7					4.45
ZONE 8					4.32
ZONE 9					4.25
GROUP 2 - ZONE 1	.45				6.76
ZONE 2					5.61
ZONE 3					6.91
ZONE 4					7.37
ZONE 5					6.05
ZONE 6					6.15
ZONE 7					4.56
ZONE 8					4.46
ZONE 9					4.36
GROUP 3 - ZONE 1	.45				6.82
ZONE 2					5.66
ZONE 3					7.14
ZONE 4					7.43
ZONE 5					6.11
ZONE 6					6.21
ZONE 7					4.61
ZONE 8					4.51
ZONE 9					4.41
GROUP 4 - ZONE 1	.45				6.90
ZONE 2					5.73
ZONE 3					7.35
ZONE 4					7.50
ZONE 5					6.18
ZONE 6					6.28
ZONE 7					4.67
ZONE 8					4.57
ZONE 9					4.47
GROUP 5 - ZONE 1	.45				7.09
ZONE 2					5.89
ZONE 3					7.77
ZONE 4					7.69
ZONE 5					6.38
ZONE 6					6.47
ZONE 7					4.83
ZONE 8					4.73
ZONE 9					4.63

SUPERSEDES DECISION

STATE: Missouri

COUNTIES: Jasper, McDonald and Newton

DECISION NO.: MO78-4098

DATE: Date of Publication

Supersedes Decision No. MO77-4269 dated September 30, 1977, in 42 FR 53066

DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories).

ASBESTOS WORKERS
 BOILERMAKERS
 BRICKLAYERS & STONEMASONS
 CARPENTERS:
 Carpenters
 Millwrights & piledrivers
 CEMENT MASONS
 ELECTRICIANS:
 Electricians
 Cable splicers
 ELEVATOR CONSTRUCTORS:
 Elevator constructors
 Helpers
 Helpers probationary

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	\$11.12	.50	1.00			.02
BOILERMAKERS	12.00	1.15	1.00			
BRICKLAYERS & STONEMASONS	10.20		.30			
CARPENTERS:						
Carpenters	8.77	.33	.30			
Millwrights & piledrivers	9.02	.33	.30			
CEMENT MASONS	7.40					
ELECTRICIANS:						
Electricians	9.98	.65	3 1/2 .50	5 1/2		.01
Cable splicers	10.33	.65	3 1/2 .50	5 1/2		.01
ELEVATOR CONSTRUCTORS:						
Elevator constructors	11.97	.745	.56	3 1/2 a		.025
Helpers	70 1/2 JR	.745	.56	3 1/2 a		.025
Helpers probationary	50 1/2 JR					

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as vacation Pay Credit. Also 6 Paid Holidays.

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
GLAZIERS	8.05					
IRONWORKERS	10.60	.45	.65			.12
LABORERS:						
Group 1	6.70	.40	.40			.10
Group 2	6.95	.40	.40			.10
Group 3	7.00	.40	.40			.10
Group 4	7.05	.40	.40			.10

CLASSIFICATION DEFINITIONS

LABORERS:

Group 1 - Common labor, carpenter tenders, trackmen, wreckers handling and carrying of reinforced steel

Group 2 - Pipelayers, air tool operators, pier hole diggers, vibrators, jackhammer, chipping hammer operators, asphalt takers, mastic kettlemen, sandblasting, gunnite nozzlemen and barco operator

Group 3 - Plasterers and mason tenders, stone mason tenders

Group 4 - Powdermen, cutting torch and welders

GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper
 GROUP 2 - 1 1/2 tons to & including 2 tons (exclusive of dump trucks), truck mechanic helper
 GROUP 3 - Single axle dump trucks, single axle water trucks
 GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
 GROUP 5 - Special equipment, euclids & 5 axle moving equipment

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Parishes
 ZONE 2 - East Baton Rouge Parish
 ZONE 3 - Bossier & Caddo Parishes
 ZONE 4 - Calcasieu Parish
 ZONE 5 - Allen & Beauregard Parishes
 ZONE 6 - Cameron & Jefferson Davis Parishes
 ZONE 7 - Lafayette, Ouachita & Rapides Parishes
 ZONE 8 - Acadia, Ascension, Bienville, DeSoto, Iberia, Iberville, Livingston, Red River, Richland, St. James, St. John the Baptist, St. Landry, St. Martin, (north of Iberia Par.), St. Tammany, Tangipahoa, Vermillion, Washington, Webster & West Baton Rouge Parishes
 ZONE 9 - Assumption, Avoyelles, Caldwell, Catahoula, Claiborne, Concordia, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Jackson, Lafourche, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Sabine, St. Helena, St. Martin (south of Iberia Par.), St. Mary, Tensas, Terrebonne, Union, Vernon, West Carroll, West Feliciana & Winn Parishes

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LINE CONSTRUCTION:					
Linenmen operators	11.73	.45	38+.15		48
Groundman	11.18	.45	38+.15		48
Groundman, 1st 6 mos.	7.50	.45	38+.15		48
Groundman, powderman	5.69	.45	38+.15		48
PAINTERS:	8.13	.45	38+.15		48
Brush, roller, tapers, floor tile & carpet layers, paper-hangers	9.17		.40		
Spray	9.545		.40		
PLASTERERS	7.30				
POWER EQUIPMENT OPERATORS:	11.175	.35	.55		.02
Group 1	10.00	.50	.50		
Group 2	9.65	.50	.50		
Group 3	9.22	.50	.50		
Group 4	8.72	.50	.50		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Crane; dragline; derrick; drum or tower hoist (2-drum); power shovel or back hoe (on tracks); piledriver; power blade, motor patrol; mechanic; hydraulic, self-propelled crane; stringer or cherry picker crane

Group 2 - Bulldozer; dirt scoop or pan; elevating grader; drum or tower hoist (1 drum); loader (track or rubber tire); tractor, pusher; roller (asphalt); tractor or back hoe (on rubber tires); tractor (compaction roller or pull blade track)

Group 3 - Fork lift; roller; industrial tractor; tractor (compaction roller or pull blade-rubber tire); distributor (bituminous); finishing machine (concrete paving); concrete saw (self-propelled); air compressor (600 cu. ft. or over); small machine (operator)

Group 4 - Oiler, oiler-driver

ROOFERS

SHEET METAL WORKERS

SPRINKLER FITTERS

7.55	.46	.20			.04
9.75	.82	.55			
11.48	.65	.95			.08

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
TRUCK DRIVERS:					
Pickup or station wagon	7.15	.25			
Dump and under 5 tons, flat-bed, warehousemen	7.25	.25			
Transit mix	7.48	.25			
Tandem dump over 5 tons, winch, semi-trailer, lowboy, euclids or other similar equipment	7.52	.25			

SUPERSEDES DECISION

STATE: New Hampshire
 COUNTY: Hillsboro & Merrimack
 DECISION NUMBER: NH78-2100
 DATE: Date of Publication
 Supersedes Decision No. NH77-1001, dated January 21, 1977 in 42 FR 4087.
 NH77-2002, dated January 21, 1977 in 42 FR 4090
 DESCRIPTION OF WORK: Building & Heavy Construction

DECISION NO. NH78-2100

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
HILLSBORO COUNTY						
BUILDING & HEAVY CONSTRUCTION						
ASBESTOS WORKERS	\$11.36	1.10	.95			.01
BOILERMAKERS	10.00	.60	102			.01
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, AND TILE SETTERS	8.89	.80	.60			.02
CARPENTERS:						
Pelham & Greenville						
Carpenters & Soft Floor Layers	10.45	.85	1.00			.07
Millwrights	10.28	.60	.50			.07
Remainder of County:						
Carpenters & Soft Floor Layers	8.62	.65	.50			.01
Filedriermen & Millwrights	8.80	.65	.50			.01
ELECTRICIANS:						
Pelham	10.02	.35	324.20			.02
Remainder of County	10.75	.50	31			.03
ELEVATOR CONSTRUCTORS:						
Constructors	10.665	.495	.32	474+4b		.02
Helpers	7.465	.495	.32	474+4b		.02
Helpers (Prob.)	5.33	.495	.32	474+4b		.02
GLAZIERS	8.52	.62	.69			.03
IRONWORKERS:						
Structural, Ornamental & Reinforcing	10.15	1.00	1.00	c		.02
LEAD BURNERS	9.25	.35				.01
LINE CONSTRUCTION:						
Linemen	9.34	.70	324.50	d		3/8 of 12
Equipment Operator	8.74	.70	324.50	d		3/8 of 12
Groundman	6.36	.70	324.50	d		3/8 of 12
Driver Groundman	7.38	.70	324.50	d		3/8 of 12
PAINTERS:						
Brush	6.90	.25				
Paperhangers	7.15	.25				
Spray & Sandblasting	8.40	.25				
Open Structural Steel	8.15	.25				
Enclosed Structural Steel						
& Steeple Jack	7.90	.25				

FLUMBERS AND STEAMFITTERS:
 Hudson and Pelham
 Remainder of County
 ROOFERS:
 Roofers
 SHEET METAL WORKERS
 SPRINKLER FITTERS
 TERRAZZO WORKERS' HELPERS
 TILE SETTERS' HELPERS

DECISION NO. NH78-2100

DECISION NO. NH78-2100

MERRIMACK COUNTY BUILDING AND HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	\$11.36	1.10	.95		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYER, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS, & TILE SETTERS	8.8	.80	.60		.02
CARPENTERS	8.62	.65	.50		.01
Millwrights & Piledrivers	8.80	.65	.50		.01
ELECTRICIANS:					
Hookset	10.75	.50	3%		.03
Remainder of County:					
Gen. Contracts \$300,000 & over	10.70	.70	3%+.50		.02
General Contract less than \$300,000	7.00	.70	3%+.50		.02
ELEVATOR CONSTRUCTORS:					
Constructors	10.665	.495	.32	4%+ab	.02
Helpers	7.465	.495	.32	4%+ab	.02
Helpers (Prob.)	5.33	.495	.32	4%+ab	.02
GLAZIERS	8.52	.62	.69		.03
IRONWORKERS - Structural, Orna- mental and Reinforcing	10.15	1.00	1.00		.02
LEAD BURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	9.34	.70	3%+.50	d	3/8 of 1%
Equipment groundman	8.74	.70	3%+.50	d	3/8 of 1%
Groundman	6.36	.70	3%+.50	d	3/8 of 1%
Driver groundman	7.38	.70	3%+.50	d	3/8 of 1%
PAINTERS:					
Brush	6.90	.25			
Open structural steel work to 25'	8.15	.25			
Enclosed structural steel work & steeplejack	7.90	.25			
Paperhangers	7.15	.25			
Spray & Sandblasting	8.40	.25			
PLUMBERS AND STEAMFITTERS	10.75	.68	.55		.02
ROOFERS:					
Roofers	6.80				
SHEET METAL WORKERS	9.42	.55	.45		.02
SOFT FLOOR LAYERS	6.56	.25	.20		.01
SPRINKLER FITTERS	10.46	.65	.95		.08

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

FOOTNOTES:

- Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- Holidays: A through F
- Holidays: A through F; Washington's Birthday, Christmas Eve and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday
- Holidays: B through F, provided the employee has been employed 5 working days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday.
- Holidays: B, C, E provided employee works day before and after each holiday.

DECISION NO. NH78-2100

NH 1-PDO R

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
CLASS 1	\$ 9.50	.85	.75	a		.05
CLASS 2	9.25	.85	.75	a		.05
CLASS 3	9.05	.85	.75	a		.05
CLASS 4	8.425	.85	.75	a		.05
CLASS 5	8.40	.85	.75	a		.05
CLASS 6	7.70	.85	.75	a		.05
CLASS 7	7.90	.85	.75	a		.05
CLASS 8	10.50	.85	.75	a		.05
CLASS 9	10.00	.85	.75	a		.05

CLASS 1 - Shovel, crane, dragline, derrick, backhoe, elevator with Chicago boom, gradall, elevating grader, front end loader 6 yds. and over, cherry picker, pile driving rigs, concrete road pavers, all three drum hoisting and trenching machines.

CLASS 2 - Rotary drill with mounted compressor, compressor house (3-6 compressors), rock and earth boring machines excluding McCarthy and similar drills, graders, 4 yds. and over front end loader, two drum hoists, high fork lifts with capacity of 15' & over, scrapers, sonic hammer, vibratory hammer.

CLASS 3 - Bulldozers, push cats, scrapers (tractor drawn), asphalt paver, front end loader 3/4 yds. to 4 yds., well driller, mechanics, pumpcrete machines, concrete pumps and similar type pumps, engineer or fireman on high pressure boiler (on job), self loading batch plant, well point operators including installing, engineer-in-charge of powered grease truck, all automatic elevators permanent or temporary operated manually or by remote controls

CLASS 4 - Single drum hoist, self-powered roller, self-propelled compactors, power pavement breakers, concrete pavement finishing machines, two bag mixers with skip, front end loaders under 3/4 yds. McCarthy and similar drills, batch plant not self loading, bulk cement plants, self-propelled material spreaders, A-frame trucks, fork lifts up to 15'.

CLASS 5 - Compressor 315 cubic ft. and over, (one or two), pumps (4 inches & over total discharge) when total discharge is over 12 inches, classification 3 will be paid, tractor (without blade or bucket) drawing roller compactors or other machines.

CLASS 6 - Compactors (up to 315 cubic feet) small mixers, pumps (up to 4 inches), power heaters, welding machines (When 3 or more heaters or welding machines are used on one job, classification 4 rate will be paid), conveyor roller including helpers on grease trucks and grease trucks with hand greasing equipment.

CLASS 7 - Oilers on truck crane and gradalls.

CLASS 8 - Cranes with boom lengths of 200 feet or more

CLASS 9 - Crane with boom length of 150 feet or more

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day;

D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A. Holidays: A-Thanksgiving, Veterans Day, Washington's Birthday and Columbus

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DECISION NO. NH78-2100

LABORERS:
Building Construction

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Laborers	\$ 7.27	.60	.80			.10
Plasterers, Tenders	7.42	.60	.80			.10
Pipelayers, fence & guard rail erectors	7.52	.60	.80			.10
Pneumatic tool ops., pavement breakers, drillers, chipping gun ops., powdermen & blasters All other pneumatic tool ops. on boiler and stack work	7.77	.60	.80			.10
	8.17	.60	.80			.10
Heavy Construction						
Laborers and pipelayers	6.67	.60	.80	e		.10
Pneumatic tool ops., drillers, concrete vibrators, & electric chipping machines	7.17	.60	.80	e		.10
Blasters and powdermen	7.42	.60	.80	e		.10

NH 5-PEO-4-P

DECISION NO. NH78-2100

POWER EQUIPMENT OPERATORS
MARINE CONSTRUCTION

CLASS	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appl. Tr.
		H & W	Pensions	Vocation	
CLASS 1	\$ 9.15	.85	.75	a	.05
CLASS 2	8.90	.85	.75	a	.05
CLASS 3	8.70	.85	.75	a	.05
CLASS 4	8.15	.85	.75	a	.05
CLASS 5	7.825	.85	.75	a	.05
CLASS 6	7.30	.85	.75	a	.05
CLASS 7	9.65	.85	.75	a	.05

CLASS 1 - Shovels, Crawler & Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Grapple, Piledrivers, Concrete Pavers, Engineers on site processing plant, Dragline, Clamshell, Cableways.

CLASS 2 - Rotary drill (with mounted compressor), Compressor house (3 to 6 compressors) Rock and earth boring machine (excluding McCarthy and similar drills), Grader, Front end loader (4 yds. or over)

CLASS 3 - Bulldozer, Push Cats, Scraper (Self propelled or tractor drawn), Self-powered Asphalt paver, (Front end loader 3/4 to 4 yds.), Mechanics, Well driller, Pumpcrete machine, Engineer or Fireman on high pressure boiler (on job) Self-loading Batch plant (on job), Well point operators.

CLASS 4 - Hoists, Conveyors, Self-powered rollers and Compactors, Self-propelled Material spreader, Self-powered concrete finishing machine.

Mixers (2 bag with skip), Front end loader (under 3/4 yd.), McCarthy & similar drills, Batch plant (not a self-loading), Bulk cement plant.

CLASS 5 - Compressor (315 C.F. or over-one or two), Pump 4" or over, Tractor without blades, Drawing sheeps-foot, rubber roller or other type compactor including machines for pulverizing and aerating soil

CLASS 6 - Compressor (up to 315 C.F.), Small mixers with skip, Oiler, Pumps up to 4", Grease truck, Power heaters, Welding machines (When 3 or more welding machines Class 4 rate applied), A-Frame, Forklifts, (Where grease truck contains powered grease equipment, engineer in charge shall be paid Class 3 rate)

CLASS 7 - Crane with boom length of 200 feet or more including jib.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F; Washington's Birthday; Veteran's Day; Columbus Day

NH 2-PEO2-3-5

POWER EQUIPMENT OPERATORS
HEAVY CONSTRUCTION

CLASS	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appl. Tr.
		H & W	Pensions	Vocation	
CLASS 1	\$ 6.335	.275	.30	a	.02
CLASS 2	6.285	.275	.30	a	.02
CLASS 3	6.215	.275	.30	a	.02
CLASS 4	5.965	.275	.30	a	.02
CLASS 5	5.755	.275	.30	a	.02
CLASS 6	5.23	.275	.30	a	.02
CLASS 7	4.555	.275	.30	a	.02
CLASS 8	5.18	.275	.30	a	.02
CLASS 9	4.605	.275	.30	a	.02

Booms over 150' including jib-additional \$.25 per hour.

Booms over 185' including jib-additional \$.50 per hour.

Booms 220' including jib-additional \$.75 per hour.

Booms over 275' including jib-additional \$1.00 per hour.

CLASS 1 - Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine, lighter, derrick boat, trenching machine, mechanical hoist, pavement breaker, cement concrete paver, dragline, hoisting engine, pumpcrete machine, elevating grader, shovel dzer (except when pushing front end loader (except when pushing), backhoe, gradall, cableway, boring machine, rotary drill, post hole hammer, post hole digger, for, lift

CLASS 2 - Swinger engine

CLASS 3 - Sonic or vibratory hammer, grader, scraper (over 21 yds. struck), tandem scraper concrete pump, Bulldozer, scraper (21 yds. struck or less).

CLASS 4 - Portable steam boiler, portable steam generator, roller, tractor, mechanic (maintenance), concrete mixer with side loader.

CLASS 5 - Assistant engineer (fireman).

CLASS 6 - Pump, compressor, welding machine, heater (power driven), valve controlling permanent plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, sump, pulsometer, concrete mixer.

CLASS 7 - Oiler (other than truck crane and gradall).

CLASS 8 - Oiler on scow.

CLASS 9 - Oiler on truck crane and gradall.

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;

E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F; Washington's Birthday; Patriot's Day,

Columbus Day; & Veteran's Day; Provided the employee has

worked 3 days during the week in which the holidays falls and

is available for work the days preceding the holidays.

DECISION NO. NH78-2100

NH 1-TD-1-2-3-L

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
CLASS 1	\$ 5.21	.55	.40	a		
CLASS 2	5.44	.55	.40	a		
CLASS 3	5.67	.55	.40	a		

CLASS 1 - Two Axle equipment

CLASS 2 - Three axle equipment including low beds

CLASS 3 - Special earth hauling equipment other than conventional type on the road truck and semitrailers trailer dumps.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day;

D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a Holidays: A through F, plus Washington's Birthday, Veteran's Day and Columbus Day; (provided employee works two days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first assigned following the holiday).

SUPERSEDES DECISION

STATE: New Hampshire
 COUNTIES: ROCKINGHAM & STRAFFORD
 DECISION NO.: NH78-2101
 DATE: Date of Publication
 Supersedes Decision No. NH77-2003, dated January 28, 1977 in 42 FR 5623;
 NH77-2004, dated January 28, 1977 in 42 FR 5629
 DESCRIPTION OF WORK: Building, Heavy, and Marine Construction

ROCKINGHAM COUNTY
BUILDING, HEAVY
CONSTRUCTION

ASBESTOS WORKERS

BOILERMAKERS

BRICKLAYERS, CEMENT MASONS,

MARBLE MASONS, PLASTERERS,

STONEMASONS, TILE SETTERS &

TERRAZZO WORKERS

CARPENTERS:

Salem:

Carpenters & Soft Floor

Layers

Remainder of County:

Carpenters & Soft Floor Layers

Piledrivermen, wharf & dock

builders & millwrights

ELECTRICIANS:

Type, of Exeter, Greenland,

Hampton, Hampton Falls,

Portsmouth, Newington, New-

market, Northwood, Nottin-

ham, Rye, Seabrook Stratham

& S. New Market

Kingston, Kensington, N.

Westville, Atkinson N. Salem

& Salem

Remainder of County

ELEVATOR CONSTRUCTORS:

Constructors

Helpers (Prob.)

GLAZIERS

IRONWORKERS:

Structural, Ornamental and

Reinforcing

LABORERS, Building:

Auburn, Candia, Chester,

Danville, Deerfield,

Center, Derry, E. Derry, Fremont,

Hampstead, Londonderry, Raymond

Sandown, W. Epping & Windham

Laborers

Plasterers tenders

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
	11.36	1.10	.95			.01
	10.00	.60	10%			.01
	8.89	.80	.60			.02
	10.75	.90	1.00			.05
	8.62	.65	.50			.01
	8.80	.65	.50			.01
	10.85	.75	3%+.25			.02
	10.02	.35	3%+.20			.02
	10.75	.50	3%			.03
	10.665	.495	.32	4%+a+b		.02
	7.465	.495	.32	4%+a+b		.02
	5.33	.495	.32	4%+a+b		.02
	8.52	.62	.69			.03
	10.15	1.00	1.00			.02
	7.27	.60	.80			.10
	7.42	.60	.80			.10

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LABORERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drillers, pavement breakers, pneumatic tool ops., chip-ping gun ops., blasters & powdermen	\$ 7.77	.60	.80		.10
All other pneumatic tool ops. on boiler & stack work	8.17	.60	.80		.10
Pipelayers, fence & guard rail erectors	7.52	.60	.80		.10
Laborers: Heavy					
Auburn, Candia, Chester, Danville, Deerfield, Deerfield Center, Derry, E. Derry, Fremont, Hampstead, Londonderry, Raymond, Sandown, W. Epping & Windham:	6.67	.60	.80	f	.10
Laborers & Pipelayers					
Pneumatic tool op., drillers concrete vibrators, & pneumatic breakers	7.17	.60	.80	f	.10
Blasters & powdermen	7.42	.60	.80	f	.10
Remainder of County:					
Building & Heavy					
Laborers	6.76	.60	.70		.10
Pneumatic tool operator, drillers, pavement breakers	7.26	.60	.70		.10
Blasters & powdermen	7.26	.60	.70		.10
Plasterers tenders	6.91	.60	.70		.10
LATHERS	9.25	.45	.55		.01
LEAD BURNERS	8.75	.30		c	.01
LINE CONSTRUCTION:					
Liscmen	9.34	.70	32+.50	d	3/8of18
Equipment Operator	8.74	.70	32+.50	d	3/8of18
Groundman	6.36	.70	32+.50	d	3/8of18
Driver Groundman	7.38	.70	32+.50	d	3/8of18

DECISION NO. NH78-2101

PAINTERS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Deerfield, Candia, Raymond, Auburn, Chester, Londonderry, Derry & Windham:	\$ 6.90	.25			
Brush	7.15	.25			
Paperhangers	8.40	.25			
Spray & Sandblasting	8.15	.25			
Open Structural Steel					
Enclosed Structural Steel and Steeplejack	7.90	.25			
Salem:					
Brush	10.06	.82	1.15		.04
Structural Steel	12.18	.82	1.15		.04
Spray & Sandblasting	11.06	.82	1.15		.04
Repaint	8.61	.82	1.15		.04
Townships of Northwood, Deerfield, Candia, Raymond, Auburn, Chester, Londonderry, Derry & Windham:					
Brush	4.70	.175			
Open structural steel, work to 25'	5.95	.175			
Enclosed Steel, over 25'	5.80	.175			
Remainder of County:					
Brush	6.35		.25		
Spray	7.35		.25		
Structural steel	6.96		.25		
Structural steel 45' or more	7.96		.25		
Taping Paperhanging	6.60		.25		
PLUMBERS & STEAMFITTERS:					
Plaistow, Atkinson, Danville, Hampstead, and Kingston	10.55	1.35	.62		.05
Salem and Windham	11.15	.87	1.00		.05
Remainder of County	10.40	.68	.55		.02
ROOFERS	6.80				
SHEET METAL WORKERS	9.42	.55	.45		.02
SPRINKLER FITTERS	10.46	.65	.95		.08

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DECISION NO. NH78-2101

STRAFFORD COUNTY
BUILDING & HEAVY
CONSTRUCTION

9-NH-1-2-3-E 1 of 2

	Basic Hourly Rates	Fringe Benefits: Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	\$11.36	1.10	.95			.01
BOILERMAKERS	10.00	.60	1.00			.01
BRICKLAYERS, Cement masons, Marble setters, Plasterers, Stone masons, Terrazzo workers and Tile setters	8.89	.80	.60			.02
CARPENTERS & SOFT FLOOR LAYERS	8.05	.55	.60			.01
ELECTRICIANS	10.85	.75	32+.25			.02
ELEVATOR CONSTRUCTORS:						
Constructors	10.665	.495	.32	44+a+b		.02
Helpers	7.465	.495	.32	44+a+b		.02
Helpers (Prob.)	5.33	.495	.32	44+a+b		.02
GLAZIERS	8.52	.62	.69			.03
IRONWORKERS:						
Structural, Ornamental & Rein- forcing	10.15	1.00	1.00			.02
LABORERS:						
Laborers	7.27	.60	.80			.10
Plasterers	7.42	.60	.80			.10
Boilers, stack work, Pneumatic tool op., drillers, pavement breakers, electric chipping ops., blasters & Powdermen, Crescote work	7.77	.60	.80			.10
Pipelayers, fence & guardrail erectors	7.52	.60	.80			.10
Pneumatic tools on boiler & Stack work	8.17	.60	.80			.10
LEADWORKERS	9.25	.35		c		.01
LINE CONSTRUCTION: Linemen	8.84	.65	37+.50	d	3/8of14	
Equipment Operator	8.24	.65	37+.50	d	3/8of14	
Groundman	5.86	.65	37+.50	d	3/8of14	
Driver Groundman	6.88	.65	37+.50	d	3/8of14	
PAINTERS: Brush	6.35		.25			
Spray and Tender	7.35		.25			
Structural Steel (45 ft. or more)	6.96	.25				
Taping & Paperhanging	6.90		.25			
PILEDRIVERS & MILLWRIGHTS	6.60		.25			
PLUMBERS & STEAMFITTERS	8.05	.55	.50			.01
ROOFERS	10.75	.68	.55			.02
	6.80					
SHEET METAL WORKERS	9.42	.55	.45			.02
SPRINKLER FITTERS	10.46	.65	.95			.08

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;
D-E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- Employer contributes 4% basic hourly rate for 5 years or more of service or 4% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- Holidays: A through F.
- Holidays: a through F; Washington's Birthday, Good Friday and Christmas Eve providing employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.
- Holiday: B through F provided employee has been employed 5 working days prior to the holiday and provided employee works the scheduled work days immediately preceding and following the holidays.
- \$.25 contribution to annuity fund.
- Holiday: B, C, & E provided employee works the scheduled work days before & after each holiday.

DECISION NO. NH78-2101

HEAVY CONSTRUCTION
POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS 1	\$ 9.77	1.10	1.00	a	.03
CLASS 2	10.57	1.10	1.00	a	.03
CLASS 3	9.65	1.10	1.00	a	.03
CLASS 4	8.535	1.10	1.00	a	.03
CLASS 5	9.13	1.10	1.00	a	.03
CLASS 6	7.77	1.10	1.00	a	.03
CLASS 7	7.84	1.10	1.00	a	.03

Boom length including jib: over 150' - additional \$.25 per hour; over 185' additional \$.50 per hour; over 220' - additional \$.75 per hour; over 275' additional \$1.00 per hour; over 295' additional \$2.00 per hour.

CLASS - Power shovels, cranes, truck cranes, derrick, pile drivers, trenching machines, mechanical hoist, pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines elevating graders, shovel dozers, (when used for digging or loading), front end loaders (when used for digging or loading), mucking machines (when used as in shafts and tunnels), shaft hoists, steam engineers, backhoes, gradalls and cableways.

CLASS 2 - Master Mechanics

Class 3 - Grader, scrapers, more than 21 yds., struck and tandem scrapers, bulldozer, scrapers, 21 yds., struck or less, grout pumps, portable steam boilers, roller, spreaders, asphalt pavers, locomotive and tampers, self-propelled or tractor-drawn, Mechanics, maintenance, sonic or vibratory hammers.

CLASS 4 - Pumps (s) (1-3 grouped), compressors welding machine (s) (1-3 grouped) generators, lighting plants, heaters (power driven 1-5), syphons, steam, conveyors, wellpoint systems (operating and installing).

CLASS 5 - Assistant engineers (Firemen).

CLASS 6 - Oilers (other than truck cranes and gradalls).

CLASS 7 - Oilers on truck cranes and gradalls.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; D-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays A through F; Washington's Birthday; Columbus Day; Veterans' Day; Fast Day.

DECISION NO. NH78-2101

BUILDING CONSTRUCTION
POWER EQUIPMENT OPERATORS

NH 3-PED-P

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS 1	\$10.18	1.10	1.00	a	.03
CLASS 2	10.06	1.10	1.00	a	.03
CLASS 3	9.37	1.10	1.00	a	.03
CLASS 4	8.63	1.10	1.00	a	.03
CLASS 5	8.11	1.10	1.00	a	.03
CLASS 6	7.70	1.10	1.00	a	.03

Boom lengths including jib: over 150' add \$.55; over 185' add \$.90; over 210' add \$1.25; over 250' add \$1.90; over 295' add \$2.65.

CLASS 1 - Shovels, cranes, truck cranes, cherry pickers, dragline, trench hoe, backhoe, 3 drum machine, derricks, pile, elevator tower, hoist, gradall, shovel dozer (except when pushing), front end loader (except when pushing), fork lift auger, boring machine, rotary drill, post hole hammer, post hole digger, pumpcrete machine.

CLASS 2 - Sonic or vibratory hammer, grader, scraper more than 21 yds.

CLASS 3 - Struck or vibratory hammer, grader, scraper 21 yds. struck or less, portable steam boiler, portable steam generator, roller, spreader, tamper, asphalt paver, Mechanics, Maintenance.

CLASS 4 - Pumps (1-3 grouped), compressor, welding machine (1-3 grouped), generator, concrete vibrator, lighting plant, heater (power driven 1-5), wellpoint system (operating & installing), syphons-pulsemeters, conc.

CLASS 5 - Assistant engineers (Firemen).

CLASS 6 - Oilers (other than truck cranes & gradalls).

CLASS 7 - Oilers on truck cranes & gradalls.

FOOTNOTE: a 10 paid holidays; New Year's Day; Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Fast Day, Columbus Day, and Armistice Day.

DECISION NO. NH78-2101

NH 1-TD-1-2-3-1

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
CLASS 1	\$ 5.21	.55	.40	a	
CLASS 2	5.44	.55	.40	a	
CLASS 3	5.67	.55	.40	a	

CLASS 1 - Two Axle equipment

CLASS 2 - Three axle equipment including low beds

CLASS 3 - Special earth hauling equipment other than conventional type on the road truck and semitrailers trailer dumps.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a Holidays: A through F, plus Washington's Birthday, Veteran's Day and Columbus Day; (provided employee works two days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first assigned following the holiday).

DECISION NO. NH78-2101

NH 5-PD-4-F

POWER EQUIPMENT OPERATORS
MARINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
CLASS 1	\$ 6.335	.275	.30	a	.02
CLASS 2	6.285	.275	.30	a	.02
CLASS 3	6.215	.275	.30	a	.02
CLASS 4	5.965	.275	.30	a	.02
CLASS 5	5.755	.275	.30	a	.02
CLASS 6	5.23	.275	.30	a	.02
CLASS 7	4.555	.275	.30	a	.02
CLASS 8	5.18	.275	.30	a	.02
CLASS 9	4.605	.275	.30	a	.02

Booms over 150' including jib-additional \$.25 per hour.

Booms over 185' including jib-additional \$.50 per hour.

Booms 220' including jib-additional \$.75 per hour.

Booms over 275' including jib-additional \$1.00 per hour.

CLASS 1 - Power shovel, crane, truck crane, derrick, cherry picker, pile driver, 2 or more drum machine, lightner, derrick boat, trenching machine, mechanical hoist, pavement breaker, cement concrete paver, dragline, hoisting engine, pumpcrete machine, elevating grader, shovel dozer (except when pushing front end loader (except when pushing), backhoe, gradall, cableway, boring machine, rotary drill, post hole hammer, post hole digger, for, lift

CLASS 2 - Swinger engine

CLASS 3 - Sonic or vibratory hammer, grader, scraper (over 21 yds. struck), tandem scraper concrete pump, bulldozer, scraper (21 yds. struck or less).

CLASS 4 - Portable steam boiler, portable steam generator, roller, tractor, mechanic (maintenance), concrete mixer with side loader.

CLASS 5 - Assistant engineer (fireman).

CLASS 6 - Pump, compressor, welding machine, heater (power driven), valve controlling permanent plant (air or steam), wellpoint system, auger (powered by independent engine and attached to pile driver), hydraulic saw, generator, lighting plant, syphon, pulsometer, concrete mixer.

CLASS 7 - Oiler (other than truck crane and gradall).

CLASS 8 - Oiler on scow.

CLASS 9 - Oiler on truck crane and gradall.

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;

E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE: a. Holidays: A through F, Washington's Birthday, Patriot's Day, Columbus Day; & Veteran's Day; Provided the employee has worked 3 days during the week in which the holidays falls and is available for work the days preceding the holidays.

SUPERSEDES DECISION

Page 2

STATE: Pennsylvania
 COUNTY: Berks
 DECISION NO.: PA78-3069
 DATE: Date of Publication
 SUPERSEDES DECISION NO. PA77-3125 dated September 9, 1977 in 42 FR 45620.
 DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Asbestos workers	\$10.76	.67	.90			.01
Boilermakers	13.775	1.075	1.00			.02
Bricklayers & Stonemasons	9.95	.70	.75			
Carpenters	9.48	.72	.45			
Cement Masons	9.64		1.05			
Electricians:						
Herford, Longswamp & Washing-						
ton, Twp., portion of Maxataw-						
ney, Twp., east of Sacony Creek						
Harion, Tulpehocken & Bethel						
Twp.	11.25	.50	38+.80			.02
Remainder of County	9.59	.65	38+.49			1/2 of 18
Elevator Constructors	11.69	.78	38+.20			.03
Elevator Constructors' Helpers	11.41	.745	.56	b+c		.025
Elevator Constructors' Helpers	7.99	.745	.56	b+c		.025
(Prob.)						
Glaziers	5.705	.40	.30			.01
Ironworkers, structural &	9.19					
ornamental, bridge						
Ironworkers, reinforcing	11.80	.84	1.36			.02
General Laborers	11.80	.84	1.36			.02
Operators of jackhammer, paving	7.60	.45	.35			
Breaking and other pneumatic,						
electrical and mechanical tools						
coming under the jurisdiction of						
laborer, laying of all clay,						
terra cotta, ironstone, vitri-						
fied concrete or non-metallic						
pipe and the making of joints						
for same, wagon drill operators						
and concrete power buggies						
Cofferdam, (below 10'), tunnel	7.83	.45	.35			
free air muckers	7.88	.45	.35			
Handling and Using cutting or						
burning torches in the wrecking						
of buildings, plaster tenders,						
scaffold builders and removal						
for plasterers						
Mason tenders, scaffold builders	7.99	.45	.35			
removal for mason and power bug-						
gies	8.03	.45	.35			
Blasters	8.05	.45	.35			

NOTICES

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DECISION NO. PA78-3069

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Lathers	9.83		.15			.01
Lead Burners	10.75	.40	.25	a		.01
Line Construction:						
Cable Splicers	11.91	.45	38			3/4 of 18
Groundman	7.15	.45	38			3/4 of 18
Linemen	11.91	.45	38			3/4 of 18
Minch truck operator	8.34	.45	38			3/4 of 18
Millwrights	10.00	.72	.45			
Painters:						
Brush	9.35	.70	.65			
Bridge, tower, stacks & tanks	10.80	.70	.85			
Spray and steel	10.40	.70	.65			
Piledrivers	11.12	2.33	1.35	g		.12
Plasterers	9.66		1.05			.01
Plumbers	12.26	.80	1.45			.11
Roofers:						
Albany, Maxstany and Windsor	11.78		1.05			
Composition and slate						
Remainder of County	10.80	.95		d		
Composition, damp & waterproof	11.60	.95		d		
Precast slab	11.25	.95		d		
Slate, tile & asbestos	10.05	1.39	1.18			.05
Sheet metal workers	9.48	.72	.45			
Soft floor layers	12.31	.75	1.05			.08
Sprinkler Fitters	12.26	.80	1.45			.11
Steamfitters	9.95	.70	.75			
Stone masons						
Truck Drivers:						
Truck drivers	6.23	e	f			
Truck drivers, helpers	6.18	e	f			

DECISION NO. PA78-3069

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS (Where Applicable):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- 9 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.
- Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 5 months to 5 years of service as Vacation Pay Credit.
- Six paid holidays: A through F, plus the Friday after Thanksgiving.
- Paid holidays: Election Day and Labor Day.
- Employer contributes \$58.37 per month to a Health and Welfare.
- Employer contributes \$43.34 per month to a Pension Fund.
- Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veteran's Day and Thanksgiving Day.

DECISION NO. PA78-3069

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or App. Tr.
GROUP 1	12.44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

- GROUP 1 - Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above
- GROUP 2 - All types of cranes, all types of backhoes, cableways, draglines, key-stones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-1/2 C.Y. and over, tandem scrapers, pipelin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lift, 20 ft lift and over machine to the above
- GROUP 3 - Conveyors, building hoists (single drum) scrapers and tounspulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-1/2 cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operators, forklift trucks under 20 ft lift, machines similar to the above
- GROUP 4 - Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tire-man (for power equipment), machines similar to the above
- GROUP 5 - Fireman, grease truck
- GROUP 6 - Oilers and deck hands (personnel boats), core driller helper
- GROUP 7 - All machines with booms (including jib, masts, leads, etc.): 100 ft and over
- GROUP 7A - 150 ft. and over
- GROUP 7B - 200 ft. and over

FOOTNOTE:

- Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day provided the employee works the day before and after the holiday.

SUPERSEDES DECISION

STATE: Pennsylvania

COUNTY: Erie

DECISION NO.: PA78-3071
 DATE: Date of Publication
 SUPERSEDES DECISION NO. PA78-3048, dated August 11, 1978, in 43 FR 35865.
 DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (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	\$11.54	.65	.60		.02
BOILERMAKERS	12.98	.60	1.20		.03
BRICKLAYERS	12.11	.80	.40		
CARPENTERS	10.47	.60	.30		.02
CEMENT MASONS	9.92	.45	.75		.015
ELECTRICIANS	12.30	.45	.38+.39	.75	.065
ELEVATOR CONSTRUCTORS	11.04	.745	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	708JR	.745	.56	a+b	.025
GLAZIERS	504JR				
IRONWORKERS:	10.41	.60	.80		
Structural	11.39	1.86	1.01		.15
Ornamental	11.59	1.86	1.01		.15
Reinforcing	11.39	1.86	1.01		.15
LATHERS	11.28	.30	.10		.02
LABORERS:					
Group I	8.84	.80	.60		.01
Group II	8.95	.80	.60		.01
Group III	9.05	.80	.60		.01
Group IV	9.11	.80	.60		.01
Group V	9.16	.80	.60		.01
Group VI	9.26	.80	.60		.01
Group VII	9.32	.80	.60		.01

LABOR CLASSIFICATIONS

Group I - Building & common, carpenter tender, heaters & salamanders, power sweepers, power vacuum sweepers, pumps including 1-1/2", signal man concrete bucket, wrecking & demolition, window washing

Group II - Bricklayer & mason tenders, electric operated conveyor, electric operated hoist, fork lift up to 9 ft., plumber & sewer laborers, scaffold builders, float grinder & sander

Group III - Burners, concrete saw operator, hod carriers, mortar mixers, plasterer tankers, powered wheelbarrows & buggies

Group IV - Dual vibrator roller (walk behind type) Barfix cutting tool, blasters helpers, drill operator helper, jackhammer & air tool operators, mechanical tampers & air tampers, vibrators, air or otherwise

LABORERS CONT'D

Group V - Mixing mortar for more than 3 masons by hand

Group VI - Blasters, drill operators, gunite nozzle man & machine man

Group VII - Plasterer mixing machine & pump

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen, Heavy Equipment	10.80	.50	.38		3/8 of 1%
Operator	7.59	.50	.38		3/8 of 1%
Winch - Truck Driver	7.26	.50	.38		3/8 of 1%
Groundmen	10.75	.40	.70		
MARBLE SETTERS	10.27	.68	.68		.02
MILLWRIGHTS					
PAINTERS:	9.30	.60	.50		.02
Brush	10.05	.60	.50		.02
Structural steel	9.80	.60	.50		.02
Spray	11.14	.80	.50		.02
PILEDRIVMEN	9.96	.60	1.00		.015
PLASTERERS	11.62	.55	1.05		.06
PLUMBERS					
ROOFERS:	10.64	.60	.30		.05
Composition	9.58	.75	.90		.075
SHEET METAL WORKERS	10.47	.60	.30		.02
SOFT FLOOR LAYERS	12.31	.75	1.05		.08
SPRINKLER FITTERS	11.62	.55	1.05		.06
STEAMFITTERS	12.11	.80	.40		
STONEMASONS	10.75	.70	.40		
TERRAZZO WORKERS	10.75	.70	.40		
TILE SETTERS	7.12	.70	.40		
TRUCK DRIVERS		c	d	e	

WELDER: Receive rate prescribed for craft performing operation to which welding is incidental

DECISION NO. PA78-3071

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vocational	
\$11.27	.95	1.00		.10
11.56	.95	1.00		.10
11.83	.95	1.00		.10
12.11	.95	1.00		.10
10.77	.95	1.00		.10
10.60	.95	1.00		.10
9.72	.95	1.00		.10
9.11	.95	1.00		.10
9.82	.95	1.00		.10
9.11	.95	1.00		.10
9.59	.95	1.00		.10

DECISION NO. PA78-3071

POWER EQUIPMENT OPERATORS

Class 1
Class 1-A
Class 1-B
Class 1-C
Class 2
Class 3
Class 4
Class 5
Class 6
Class 6-A
Class 6-B

POWER EQUIPMENT OPERATORS (Cont'd)

Class 1-A: Austin Western or similar type with jib + 256, Austin Western or similar type 25 tons or over with jib + 256, Cranes (excluding over head cranes), Crane - placed on building structure, Hoist single cage with Chicago Boom attached + 256, Engineer - lead, Hoist hod (2 cages over 10 floors), Cranes - 100 feet to 150 feet

Class 1-B: Cranes - 150 feet to 200 feet

Class 1-C: Cranes - 200 feet and over

POWER EQUIPMENT OPERATORS

Class 1: Auger (truck or tractor mounted), Austin Western or similar type, Austin Western or similar type up to 25 tons (25 tons or over requires an oiler), Backhoe, Backhoe (under 5/8 yd.), Batch plant - Automatic, Boom - side, Cableways, Conveyors Belts - up to 4 floors, Conveyor Belts - over 4 units, Crane - Tower (climbing type), Derrick (all types), Derrick - Traveler, Dragline, Drill - Caisson, Electro Matic or similar, Gradall (remote control or otherwise), Helicopter, Helicopter - hoisting operating Hi-lift (3 yards or over), Hoist - on 50 ft. stack or over, Hoist on slip form job, Hoist - hod (single cage), Hoist - hod (2 cages up to 10 floors), Hop-to or similar type with 360 degree swing, Hop-to or similar type with 360 degree swing under 5/8 yd., Koehring Scooper, Kocal or similar type, Leverman, Mix Mobile or similar type, Mixer - concrete paving, Mixer - paving (self-propelled), Multiple Bowl Machines or Multi-engine, Pile Driver - Franki or similar type, Pile Driver (when assistance is required it will be an operating engineer), Placer - belt (concrete), Plant - Central Mix, Quad Nine, Shovels (all types), Shovels under 5/8 yd.) Tractors - Boom mounted (all types), Tugboat, Whirlers, Boat - job work (inboard or outboard), Bulldozer, Carrier Ross or similar type, Compactor - (with blade attached), Curb Builder - self-propelled, Drill - Core, Drill - Well and Core (truck mounted), Engineer - maintenance (daily rated) Grader, Grader - Elevating, Greaser - equipment, Hi-lift (less than 3 yards), Hoist 2 drums in one unit, Hop-to or similar type with 180 degree swing, Tractors (all types with hydraulic backhoe attached), Cranes, Tower, Metro Chip Harvester (or similar type), Mixer - paving mixer - mortar - over 10 cu. ft., Plant - crushing and screening, Pumpcrete - mobile or similar type, Road Builder - Automatic, Scoop - self-powered and Tractor drawn (single bowl), Spray Cure Machine (power driven), Spreader, Steam Jenny (or similar type), Syphon (steam or air) Tractors (all types with hydraulic backhoe attached)

Class 2: Backfilling Machine, Bost - material or personnel, Compressor and air pump, Compressor and air tugger, Compressor and unite machine (combination), Compressors and sandblasting unit (combination), Compressors (two), crane - overhead, Fork lift - elevating - full or similar type generators - two Grade - sub, Jumbo - power, Layer - cable, Layer - pipe - no joint, Lift Slab Machine, Locomotive Machines - other minor, machines - small (two), Mucking Machine, Mobile Tower, Pipe - bending Machine (pipeline only), Pipe - cleaning machine, Pipe - wrapping machine, Plant - asphalt operator, Plant - portable crushing and screening, Plant - refrigeration pump - grout, Spreader-concrete, Asphalt and Stone, Well point systems (Section IC), Winch Truck (handling steel), Wire wrapping machine - pre-stress, Drill - Davey or similar, Drill - truck mounted and/or core drill for testing, Elevator (new buildings and major remodeling of old), Hoist one drum, Paver - asphalt, Post Driver - guard rail (other than truck mounted), Post Driver - guard rail (truck mounted), Pumpcrete or similar type (not self-propelled), Tire Repairman, Trencher Machine, Welder, Welding Machines (up to and including 4)

Class 3: Boiler, Breaker - pavement (self-propelled or ridden), Compactor (ridden or self-propelled), Crane - carry, Crusher - stone, Drill - well (horizontal), Drill (self-propelled and self contained), Elevator (alterations of old buildings), Finisher - broom (C.M.I. or similar type), Finishing Machine and Spreader (concrete), Forklifts (ridden or self-propelled), Form Line Machine, Minor equipment (all other), Motorman, Pipe Dream, Roller, Saw - concrete (ridden or self-propelled), Soil Stabilizer, Tractors (when used for shaking and hauling), Truck - winch, Tugger

DECISION NO. PA78-3071

DECISION NO. PA78-3071

POWER EQUIPMENT OPERATORS (Cont'd)

- Class 4: Compressors single over 65 cu. ft. regardless of power used, Hoist - monorail (regardless of power used), Pump (over 1 1/2 inch discharge regardless of power used), Oiler - truck crane (50 tons or over and Fireman)
- Class 5: Blaster - water, Boring Machine, Broom - power, Compressor - 65 cu. ft. or under (regardless of power used) (2 gun painters), Conveyor - 1 story (regardless of power used), Conveyor (over 1 and up to 3 units regardless of power used), Generator (4 KW or over), Hauck Machine or similar type, Heaters - up to and including four), Jack and Pump - motor hydraulic, Jenny - steam (or similar type), Ladavator, Mixer - concrete (regardless of power used), Mixer - mortar (over 10 cu. ft. regardless of power used), Mobile - track (or similar type), Mulching Machine, Pin Puller, Pulverizer, Pump - 1 1/2 inch discharge or less, Regulator - Ballast, Seeding Machine, Shoulder, Spray Cure Machine, Syphon - (steam or air), Tie Tamper (multiple heads), Tractor - farm (when used for landscaping), Welding machine - single (300 amp. or over), Oiler, Truck Crane.
- Class 6: Brake man, Deck hand, Helicopter, signalman, Oiler, Mechanic helper
- Class 6-A: Oiler, Truck crane
- Class 6-B: Oiler, Truck crane (50 tons or over)

PAID HOLIDAYS: (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- Employer contributes 8 1/4 basic hourly rate for 5 years or more of service or 6 1/4 basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
- Holidays: A through F, plus Friday after Thanksgiving Day.
- Employer agree to contribute \$67.94 per month to a Health and Welfare Fund.
- Employer agree to contribute \$20.00 per week to a pension fund.
- One week vacation after 1 years work; two weeks vacation after five years of service.

STATE: Utah
 DECISION NUMBER: UT78-5128
 SUPersedes Decision No. UT78-5012 dated March 17, 1978, in 43 FR 11454
 DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

COUNTIES: Statewide

DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appt. Tr.
		H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$ 11.21	.84	\$ 1.20		.02
BOILERMAKERS	11.825	1.075	1.00	.75	.09
BRICKLAYERS	11.61	.45	.42		
CARPENTERS:					
Building Construction:					
Carpenters	10.25	.55	.65		.03
Saw operators; Carpenters					
handling creosote materials	10.50	.55	.65		.03
Millwrights	11.00	.55	.65		.03
Piledrivermen	13.10	.55	.65		.03
Heavy and Highway Construction:					
Zone 1: Area 0 to 40 miles from the following Cities:					
Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, Vernal:					
Carpenters	10.25	.55	.65		.03
Saw operators; Carpenters					
handling creosote materials-	10.50	.55	.65		.03
Millwrights	11.00	.55	.65		.03
Piledrivermen	13.10	.55	.65		.03
Zone 2: Area 40 to 60 miles from the above-named Cities:					
Carpenters	11.25	.55	.65		.03
Saw operators; Carpenters					
handling creosote materials	11.50	.55	.65		.03
Millwrights	11.00	.55	.65		.03
Piledrivermen	13.10	.55	.65		.03
Zone 3: Area over 60 miles from the above-named Cities:					
Carpenters	12.25	.55	.65		.03
Saw Operators; Carpenters					
handling creosote materials	12.50	.55	.65		.03
Millwrights	11.00	.55	.65		.03
Piledrivermen	13.10	.55	.65		.03

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appl. Tr.
		H & W	Pensions	Vacation	
CEMENT MASONS:					
Building Construction:					
Cement Masons	\$ 9.99	.55	.65		
Machine Operator; Mastic					
Floor Materials	10.17	.55	.65		
Swing Scaffold; Swing Stage	10.29	.55	.65		
Heavy and Highway Construction:					
Zone 1: Area 0 to 40 miles from the following Cities:					
Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, Vernal:					
Cement Masons	9.99	.55	.65		
Machine Operator; Mastic					
Floor Materials	10.12	.55	.65		
Swing Scaffold; Swing Stage	10.24	.55	.65		
Zone 2: Area 40 to 60 miles from the above-named Cities:					
Cement Masons	10.99	.55	.65		
Machine Operator; Mastic					
Floor Materials	11.12	.55	.65		
Swing Scaffold; Swing Stage	11.24	.55	.65		
Zone 3: Area over 60 miles from the above-named Cities:					
Cement Masons	11.99	.55	.65		
Machine Operator; Mastic					
Floor Materials	12.12	.55	.65		
Swing Scaffold; Swing Stage	12.24	.55	.65		
DRYWALL INSTALLERS:					
taping, finishing and texturing (hand or machine)	10.64	.51	.30		.03

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appl. Tr.
	H & W	Pensions	Vacation		
ELECTRICIANS: North section of Utah - Box Elder, Cache, Davis County (north of 41st Parallel), Morgan, Rich, Weber Counties: Zone 1: That area 10 miles on either side of Interstate Hwy. #15, commencing on the south at the 41st Parallel in Davis County, continuing north to Hwy. #91 Interstate 15 junction south of Brigham City; at this point go east and north through Logan and continue north to the 42nd Parallel in Cache County on Hwy #91: Electricians; Technicians Cable Splicers Zone 2: That area not included in Zone 1 that lies east of 112°20' longitude in Box Elder County and that area lying west of 111°35', north of the 41st Parallel and south of the 40th Parallel in Cache, Morgan, Weber Cos.: Electricians; Technicians Cable Splicers	\$ 11.60 11.85	.70 .70	38+.75 38+.75		8/10% 8/10%
	12.10 12.35	.70 .70	38+.75 38+.75		8/10% 8/10%

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appl. Tr.
	H & W	Pensions	Vacation		
ELECTRICIANS: (Cont'd) North Section of Utah (Cont'd) Zone 3: That area lying east of 111°35' longitude and north of the 41st Parallel in Cache, Morgan, Rich, Weber Counties; also the area in Box Elder County lying west of 112°20' longitude and north and east of Utah Hwy. #87: Electricians; Technicians Cable Splicers Zone 3-A: That area from a point 2 miles north of Center Street in Smithfield to the Utah-Idaho State Line and 10 miles east and west from Highway #91: Electricians; Technicians Cable Splicers Zone 4: All other area west of Zones 3 and 3-A in Box Elder County: Electricians; Technicians Cable Splicers In the above Zones 2, 3, and 3-A, on any job or project not exceeding \$200,000 electrical, labor and material including, Zone 1 rates shall apply.	\$ 12.60 12.85	.70 .70	38+.75 38+.75		8/10% 8/10%
	12.60 12.85	.70 .70	38+.75 38+.75		8/10% 8/10%
	14.35 14.60	.70 .70	38+.75 38+.75		8/10% 8/10%

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
PLASTERERS' TENDERS	\$ 8.80	.40	.35			.01
PLASTERERS	10.40	.55	.65			.06
PLUMBERS; pipefitters	10.95	.66	1.00			
REFRIGERATION and AIR CONDITIONING	10.95	.66	1.00			.06
ROOFERS	9.99	.57	.35			.05
SHEET METAL WORKERS	11.13	.54	.60			.08
SOFT FLOOR LAYERS	8.65	.51	.12			
SPRINKLER FITTERS	11.13	.75	1.05			.08
TERRAZO WORKERS & TILE LAYERS	10.52	.37	.30			
WELDER: Receive rate prescribed for craft performing operation to which Welding is incidental.						
FOOTNOTES:						
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.						
b. Employees who have been employed for a period of 1 year shall have 3 weeks' vacation with pay. Should a holiday listed below occur within a employee's vacation period he shall be allotted an additional day's vacation. 8 paid Holidays: A thru F and President's Day and Pioneer Day.						
PAID HOLIDAYS:						
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.						

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
LABORERS						
Building Construction						
Group 1	\$ 7.77	.50	.35		.04	
Group 2	7.90	.50	.35		.04	
Group 3	8.02	.50	.35		.04	
Group 4	8.27	.50	.35		.04	
Group 5	8.77	.50	.35		.04	

LABORERS

Building Construction

Group 1: General Laborer

Group 2: Asphalt raker; Sandblast pot tender; Gunite nozzle man; Concrete pump (head hose man); Signalman and dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., compressor, compactors, jackhammer, vibrator, concrete saw, chain saw and concrete cutting torch); Pipelayer; Laser instrument operator; Refinery tank and vessel cleaner; Sandblaster

Group 4: Air track and similar drills

Group 5: Powderman

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
			H & W	Pensions	Vacation		
LABORERS*							
Heavy & Highway Construction							
Group 1	7.77	AREA 1	AREA 2				
Group 2	7.90		\$9.27	.50	.35		.04
Group 3	8.02		9.40	.50	.35		.04
Group 4	8.27		9.52	.50	.35		.04
Group 5	8.77		9.77	.50	.35		.04
			10.27	.50	.35		.04
Tunnel and Shaft Work							
Group 1	7.92		9.42	.50	.35		.04
Group 2	8.02		9.52	.50	.35		.04
Group 3	8.22		9.77	.50	.35		.04
Group 4	8.67		10.17	.50	.35		.04
*LABORERS - AREA DEFINITION: See "Area Definition" - following Track Drivers.							

LABORERS**Heavy and Highway Construction****Group 1: General Laborers**

Group 2: Asphalt raker; Sandblast pot tender; Gunite nozzleman; Concrete pump head hoseman; Signallman and dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., compressor, compactors, jackhammer, vibrator, concrete saw, chain saw and concrete cutting torch); Pigelayer; Laser instrument operator; Refinery tank and vessel cleaner; Sandblaster

Group 4: Air tank and similar drills

Group 5: Powderman**Tunnel and Shaft Work****Group 1: Underground laborers**

Group 2: Brakeman; Chucktender; Dumpman; Powderman helper; Puddler; Nipper; Taperman; Vibrator; Screedmen

Group 3: Cutting machine operator; Drill doctor; Finisher; Gunite gunman; Miner; Powder makeup man; Spader and tugger; Steelman; Gunite groundman; Gunite nozzleman; Gunite rodman; Concrete head hogman

Group 4: Shifter

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
			H & W	Pensions	Vacation		
POWER EQUIPMENT OPERATORS:							
Building Construction							
Group 1	\$ 8.06	AREA 1	AREA 2				
Group 2	8.45		\$ 9.06	.90	\$ 1.565	.75	.05
Group 3	8.65		9.45	.90	1.565	.75	.05
Group 4	8.76		9.65	.90	1.565	.75	.05
Group 5	8.76		9.76	.90	1.565	.75	.05
Group 6	9.27		9.76	.90	1.565	.75	.05
Group 7	9.27		10.27	.90	1.565	.75	.05
Group 7-A	9.44		10.44	.90	1.565	.75	.05
Group 8	9.56		10.56	.90	1.565	.75	.05
Group 8-A	9.89		10.89	.90	1.565	.75	.05
Group 9	9.96		10.96	.90	1.565	.75	.05
Group 10	10.12		11.12	.90	1.565	.75	.05
Group 11	10.30		11.30	.90	1.565	.75	.05
Group 11-A	10.79		11.79	.90	1.565	.75	.05
Group 11-B	11.75		12.75	.90	1.565	.75	.05
Group 12	12.24		13.24	.90	1.565	.75	.05
	12.52		13.52	.90	1.565	.75	.05
*POWER EQUIPMENT OPERATORS - AREA DEFINITIONS: See "Area Definition" - following Truck Drivers							

POWER EQUIPMENT OPERATORS**Building Construction**

Group 1: Assistant to engineer; Elevator operator; Hydraulic monitor; Material loader or conveyor operator

Group 2: Air compressor operator; Concrete mixer operator (skip-type); Concrete pump or pumpcrete gun operator; Generator operator (100 KW or over); Mixer box operator or similar (concrete or asphalt plant continuous mix); Pump operator; Truck crane oiler

Group 3: Front end loader (up to and including 1 cu. yds. struck M.R.C.); Hoist operator - 1 drum; Slip form pumps

Group 4: Heavy duty repairman and welder

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction

Group 5: Air Compressor Operator (2 or more compressors); Signalman; Small Rubber-tired Tractor; Small self-propelled pneumatic rollers; Towermobile Operator; Welding Machine (2 or more); Concrete Conveyor, building site

Group 6: A Frame Truck and Tugger Hoist; Fork Lift (construction jobsite); Kolman Loader and similar; Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. struck M.R.C.); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Ross Carrier or similar type; Small rubber-tired tractor (with attachments, including backhoe); Small rubber-tired trenching Machine; Small Tractor with boom; Grader/scraper

Group 7: Bridge Crane; Concrete Mixer Operator (paving or batch plant); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Hoist Operator - 2 drums; Full High-lift (40 ft. or similar); Roller Operator or self-propelled Compactors; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, Truck or equipment mounted (boom length to apply); Self-propelled Compactor with or without dozer

Group 7-A: Tractor Operator (bulldozer or tractor-drawn scraper or drag-type shovel or boom attachment, up to and including 7 or similar)

Group 8: Chicago Boom (including Stiff Leg and Shear Pole); Concrete Batch Plant (multiple units); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Self-propelled Boom type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

Group 8-A: Heavy Duty Repairman or Welder; Tractor Operator (bulldozer or tractor-drawn scraper or drag-type shovel or boom attachment, larger than D-7 or similar)

Group 9: Motor Patrol

Group 10: Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell, crane, grade-all, etc.) (up to and including 5 cu. yds. struck M.R.C.); Self-propelled Boom type Lifting Device (center mount); Tower Crane (linden type or similar designs and capacity)

Group 11: Remote Controlled Cranes and Derricks; Tower Cranes Mobile

Group 11-A: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 11-B: Operator of Helicopter (when used in erection work)

Group 12: Cranes over 125 tons

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
			H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS:*						
Heavy and Highway Construction						
	AREA 1	AREA 2				
Group 1	\$ 8.96	\$10.46	\$1.15	\$ 1.75	.95	.14
Group 2	9.24	10.74	1.15	1.75	.95	.14
Group 3	9.59	11.09	1.15	1.75	.95	.14
Group 4	9.77	11.27	1.15	1.75	.95	.14
Group 5	9.88	11.38	1.15	1.75	.95	.14
Group 6	10.34	11.84	1.15	1.75	.95	.14
Group 7	10.49	11.99	1.15	1.75	.95	.14
Group 7-A	10.60	12.10	1.15	1.75	.95	.14
Group 8	10.90	12.40	1.15	1.75	.95	.14
Group 8-A	10.96	12.46	1.15	1.75	.95	.14
Group 9	11.02	12.52	1.15	1.75	.95	.14
Group 10	11.18	12.68	1.15	1.75	.95	.14
Group 11	11.62	13.12	1.15	1.75	.95	.14
Group 11-A	12.58	14.08	1.15	1.75	.95	.14
Group 11-B	13.03	14.53	1.15	1.75	.95	.14
Group 12	13.19	14.69	1.15	1.75	.95	.14
*SEE AREA DEFINITION following TRUCK DRIVERS						
Underground and Shaft Work:						
Underground Work: Employees working underground shall receive \$.30 per hour in addition to their straight-time hourly wage rate						
Shaft Work: Employees working within shafts, Stoppes and Raises shall receive \$.50 per hour in addition to their straight-time hourly rate.						

POWER EQUIPMENT OPERATORS (Cont'd)

Heavy and Highway Construction

Group 1: Asphalt plant fireman; Assistant to engineer; Brakeman-locomotive; Elevator operator; Fireman; Hydraulic monitor; Material loader or conveyor operator; Partsman-field; Repairman helper-field; Chainman; Rodman

Group 2: Air compressor operator; Concrete mixer operator (skip-type); Concrete pump or pumpcrete gun operator; Engineer, dinky operator; Generator operator (100 KW or over); Mixer box operator or similar (concrete or asphalt plant continuous mix); Pump operator; Screedman; Self-propelled, automatically applied concrete curing machine (on street, highways, airports and canals); Truck crane oiler; Boxman, asphalt plant

Group 3: Ballast jack tamper; Ballast regulator; Ballast tamper-multiple-purpose; Front end loader (up to and including 1 cu. yd. struck MRC); Hoist

Group 4: Slurry Seal Machine or similar

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 5: Air Compressor Operator (2 or more compressors); Batch Operator (asphalt plant); Motorman; Pavement Breaker Operator (Emeco and similar type); Shuttlecar; Signalman; Small rubber-tired tractor; Small self-propelled pneumatic rollers; Tower-mobile Operator; Welding Machine (2 or more); Lube and Service Engineer (mobile and grease rack); Concrete Conveyor (building site)

Group 6: A-Frame Truck and Tugger Hoist; Concrete Saws (self-propelled units on streets, highways, airports and canals); Engineer-locomotive; York Lift (construction jobsite); Rollman Loader (and similar); Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. struck MRC); Maginnis Internal Full Slab Vibrator (on airports, highways, canal and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Power Jumbo Operator (setting slip forms, etc., in tunnels); Road Mixing Machine Operator; Boss Carrier or similar type; Small rubber-tired tractor (with attachments, including backhoes); Small rubber-tired Trenching Machine; Small Tractor with boom; Surface Heater (self-propelled); Gradersetter

Group 7: Bridge Crane; Chip Box Spreader (Flaherty-type and similar); Concrete Mixer Operator (paving or batch plant); Deck Engineer (Marin); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Elevating Grader Operator; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as Quarry Master, Joy Drills or equal); Hoist Operator - 2 drums; Lull High Lift (40 ft. or equal); Mechanical Finisher Operator (asphalt or concrete); Mine or Shaft Hoist; No-Joint Pipe Laying Machine; Pavement Breaker; Pavement Breaker with Compressor Combination; Pavement Breaker, truck mounted, compressor combination; Refrigeration Plant; Roller Operator or self-propelled Compactor; Self-propelled Pipeline, Wrapping Machine (Perault, CRC, or similar types); Slusher Operator; Tractor Compressor Drill combination; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Mechanical Bump, Curb and/or Curb and Gutter Machine, Concrete or Asphalt; Self-propelled Compactor with or without dozer; Drilling and Boring Machinery, Horizontal and Vertical (not to apply to waterliners, wagon drills or jackhammers); Self-propelled Compactor (with multiple-propulsion power units)

Group 7-A: Side Boom Operator; Tractor Operator (Bulldozer or tractor-drawn scraper or drag-type shovel or boom attachment, up to and including D-7 or similar); Instrument Man

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Do-more Loader and Adams Elegrader; Euclid Loader and similar types; Koehring Skooter (or similar) (up to 5 cu. yds. struck MRC); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck MRC); Mechanical Trench Shield; Mucking Machine Operator; Rubber-tired Scrapers (under 35 cu. yds. struck MRC); Saurman-type Dragline (under 5 cu. yds. struck MRC); Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less MRC); Self-propelled Elevating Grade Plane; Soil Stabilizer (FSH or equal); Subgrader (automatic subgrader - fine grader); Tri-batch Paver; Tunnel Mole (or similar); Asphalt Plant Engineer; Engineer, crushing plant; Combination Backhoe and Loader (3/4 yds. and over struck MRC)

Group 8-A: Heavy Duty Repairman or Welder; Tractor Operator (bulldozer or tractor-drawn scraper or drag-type shovel or boom attachment, larger than D-7 or similar)

Group 9: Combination Mixer and Compressor (gunite); Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden-type or similar designs and capacity)

Group 10: D.W. 10, 20, etc. (Tandem Scrapers); Highline Cableway Operator; Lift Slab Machine (Vagborg and similar types); Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck MRC); Locomotive (over 100 tons) (single or multiple units); Prestress Wire Wrapping Machine; Saurman-type Dragline (5 cu. yds. and over struck MRC); Tractor (tandem scrapers); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell, crane, grapple, etc.) (up to and including 5 cu. yds. struck MRC); Self-propelled Boom-type lifting device (center mount (over 10 tons)

Group 11: Automatic Concrete Slip Form Paver; Koehring Skooter (or similar) (5 cu. yds. and over struck MRC); Multiple Propulsion power unit earth movers (up to and including 75 cu. yds. struck MRC); Power Equipment with Shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. struck MRC); Remote-controlled Cranes and Derricks; Rubber-tired Scrapers (35 cu. yds. and over struck MRC); Slip Form Paver (concrete or asphalt); Tandem Tractors; Tower Cranes Mobile

Group 11-A: Loader Operator (over 12 cu. yds. struck MRC up to 18 cu. yds. MRC); Multi-purpose earth moving machines (2 or more scrapers) (over 75 cu. yds. struck MRC); Power Shovels and Draglines (over 7 cu. yds. struck MRC)

Group 11-B: Operator of Helicopter (when used in erection work); Loader (18 cu. yds. and over)

Group 12: Cranes (over 125 tons)

POWER EQUIPMENT OPERATORS:
Steel Erection

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
POWER EQUIPMENT OPERATORS:						
Steel Erection						
Group 1	\$10.19	\$1.15	\$ 1.75	.95		.14
Group 2	10.60	1.15	1.75	.95		.14
Group 3	11.69	1.15	1.75	.95		.14
Group 4	11.84	1.15	1.75	.95		.14
Group 4-A	12.15	1.15	1.75	.95		.14
Group 5	12.67	1.15	1.75	.95		.14
Group 6	13.11	1.15	1.75	.95		.14
Group 6-A	13.72	1.15	1.75	.95		.14
Group 7	14.81	1.15	1.75	.95		.14
Piledriving						
Group 1-A	9.68	1.15	1.75	.95		.14
Group 1-B	10.05	1.15	1.75	.95		.14
Group 1-C	10.28	1.15	1.75	.95		.14
Group 2-A	10.28	1.15	1.75	.95		.14
Group 2-B	11.10	1.15	1.75	.95		.14
Group 3	11.42	1.15	1.75	.95		.14
Group 3-A	11.86	1.15	1.75	.95		.14
Group 4	12.43	1.15	1.75	.95		.14
Group 5	12.61	1.15	1.75	.95		.14
Group 6	13.77	1.15	1.75	.95		.14
Underground and Shaft Work:						
Underground Work: Employees working underground shall receive \$.30 per hour in addition to their straight-time hourly wage rate.						
Shaft Work: Employees working within Shafts, Stops and Raises shall receive \$.50 per hour in addition to their straight-time hourly rate.						

POWER EQUIPMENT OPERATORS (Cont'd)
Steel Erection

Group 1: Assistant to Engineer (oilier)

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 KW or over); (structural steel or tank erection only); Assistant to Engineer (truck crane oilier)

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (structural steel or tank erection only); Deck Engineer; Signalman (using mechanical equipment); Fork Lift

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy Duty Repairman - Welder

Group 5: Dual-purpose A-Frame or Boom Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons MRC or less); Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less MRC); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Trucks Cranes (over 15 tons MRC); Derricks; Highline Cableway; Gantry Rider (or similar equipment); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons); Tower Cranes Mobile (including rail mounted); Universal Liebherr and Tower Cranes (and similar types); 2 or more drum Hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd)
Piledriving

Group 1-A: Assistant to Engineer (deckhand, fireman, oiler)

Group 1-B: Compressor Operator

Group 1-C: Assistant to Engineer (truck crane oiler)

Group 2-A: Operator of Tugger Hoist (hoisting materials only)

Group 2-B: Compressor Operator (over 2); Generators; Pumps; Welding Machines (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frame; Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less MEC)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Operator of Piledriving Rigs, skid or floating and derrick barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) up to and including 1 cu. yd. rating; Self-propelled Boom-type lifting device (center mount) (over 10 tons); Truck Cranes Operator (up to and including 25 tons) (hoisting material only)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) over 2 cu. yd. rating; Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler or Universal-type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity):

Pickup

Less than 10 tons

10 tons and less than 15 tons

15 tons and less than 20 tons

20 tons and over

TRANSIT MIX TRUCKS:

Less than 8 cu. yds. capacity

Over 8 to 14 cu. yds.

CONCRETE PUMPING TRUCKS

	Fringe Benefits Payments				Education and/or Appr. Tr.	
	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions		Vocation
TRUCK DRIVERS*	AREA 1	AREA 2				
DUMP TRUCKS - Water level capacity (bottom, end and side) (including Dumpster Trucks, Euclid type Trucks, Turnawagons, Turnarockers and Dumpcrete)						
Less than 8 yards	\$ 9.65	\$ 11.15	.75	.77	\$1.00	.10
8 yds. and less than 14 yds.	9.80	11.30	.75	.77	1.00	.10
14 yds. and less than 35 yds.	9.95	11.45	.75	.77	1.00	.10
35 yds. and less than 55 yds.	10.15	11.65	.75	.77	1.00	.10
55 yds. and less than 75 yds.	10.35	11.85	.75	.77	1.00	.10
75 yds. and less than 95 yds.	10.55	12.05	.75	.77	1.00	.10
95 yds. and less than 105 yds.	10.75	12.25	.75	.77	1.00	.10
105 yds. & less than 130 yds.	10.87	12.37	.75	.77	1.00	.10
130 cu. yds. and over to be paid one-half cent (\$.005) per cu. yds. capacity per hour in addition to rate for 105 yards and less than 130 yards						
FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity):						
Pickup	9.475	10.975	.75	.77	1.00	.10
Less than 10 tons	9.55	11.05	.75	.77	1.00	.10
10 tons and less than 15 tons	9.70	11.20	.75	.77	1.00	.10
15 tons and less than 20 tons	9.80	11.30	.75	.77	1.00	.10
20 tons and over	9.95	11.45	.75	.77	1.00	.10
TRANSIT MIX TRUCKS:						
Less than 8 cu. yds. capacity	9.875	11.375	.75	.77	1.00	.10
Over 8 to 14 cu. yds.	9.975	11.475	.75	.77	1.00	.10
CONCRETE PUMPING TRUCKS	9.975	11.375	.75	.77	1.00	.10

AREA DEFINITIONS

Laborers
(Heavy and Highway Construction)
Power Equipment Operators
(Building Construction)
(Heavy and Highway Construction)
Truck Drivers

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appt. Tr.
			H & W	Pensions	Vacation	
TRUCK DRIVERS* CONT'D)		AREA 2				
WATER, FUEL & OIL TANK TRUCKS:						
Less than 1200 gallons	\$ 9.525	\$11.025	.75	.77	\$1.00	.10
1200 gallons to less than 2500 gallons	9.65	11.15	.75	.77	1.00	.10
2500 gallons to less than 4000 gallons	9.80	11.30	.75	.77	1.00	.10
4000 gallons to less than 6000 gallons	10.10	11.60	.75	.77	1.00	.10
6000 gallons to less than 10,000 gallons	10.35	11.85	.75	.77	1.00	.10
10,000 gallons to less than 15,000 gallons	10.60	12.10	.75	.77	1.00	.10
15,000 gallons to less than 20,000 gallons	10.85	12.35	.75	.77	1.00	.10
20,000 gallons to less than 25,000 gallons	11.10	12.60	.75	.77	1.00	.10
25,000 gallons and over	11.35	12.85	.75	.77	1.00	.10
OILER SPREADER OPERATOR (on single man operation where Boot Man is not required)	10.35	11.85	.75	.77	1.00	.10
CONSTRUCTION JOB SERVICEMEN:						
Fork Lift; Straddle Truck	9.85	11.35	.75	.77	1.00	.10
Chauffeurs	9.425	10.925	.75	.77	1.00	.10
Sweeper or Vacuum Truck	9.80	11.30	.75	.77	1.00	.10
Warehousemen (counter clerk)	9.85	11.35	.75	.77	1.00	.10
Washers	9.625	11.125	.75	.77	1.00	.10
Tireman and Greaser	10.05	11.55	.75	.77	1.00	.10
Gas Station Attendants	9.475	10.975	.75	.77	1.00	.10
Teamster Mechanic and Welder	10.66	12.16	.75	.77	1.00	.10
Teamster Driving two Horses	10.425	11.925	.75	.77	1.00	.10
Teamster Driving three or more horses	10.525	12.025	.75	.77	1.00	.10

*SEE AREA DEFINITION following this page.

Area 1: All areas included in the description defined below which is based upon township and range lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah/Nevada border and the Southerly line of township 35 south;
Thence easterly to the S.E. corner of township 35 south, range 17 west;
Thence northerly to the S.E. corner of township 34 south, range 17 west;
Thence easterly to the S.E. corner of township 34 south, range 16 west;
Thence northerly to the S.E. corner of township 30 south, range 16 west;
Thence easterly to the S.E. corner of township 30 south, range 15 west;
Thence northerly to the S.E. corner of township 25 south, range 15 west;
Thence easterly to the S.E. corner of township 25 south, range 14 west;
Thence northerly to the S.E. corner of township 24 south, range 14 west;
Thence easterly to the S.E. corner of township 24 south, range 13 west;
Thence northerly to the S.E. corner of township 23 south, range 13 west;
Thence easterly to the S.E. corner of township 23 south, range 12 west;
Thence northerly to the S.E. corner of township 18 south, range 12 west;
Thence easterly to the S.E. corner of township 16 south, range 11 west;
Thence northerly to the S.E. corner of township 16 south, range 10 west;
Thence easterly to the S.E. corner of township 15 south, range 10 west;
Thence northerly to the S.E. corner of township 14 south, range 9 west;
Thence easterly to the S.E. corner of township 14 south, range 8 west;
Thence northerly along the easterly line of range 8 west, crossing the Salt Lake Base Line to the intersection of the easterly line of range 8 west and the northerly border of Utah;
Thence easterly along the northerly border of Utah crossing the Salt Lake Meridian to the Utah/Idaho/Wyoming border;
Thence southerly along the Utah/Wyoming border;
Thence easterly along the Utah/Wyoming border to the intersection of the Utah/Wyoming border and Longitude 111 degrees west;
Thence southerly along Longitude 111 degrees west crossing the Salt Lake Base Line to the intersection of Longitude 111 degrees west and the southerly line of township 4 south;
Thence easterly along the southerly line of township 4 south to the S.E. corner of township 4 south, range 17 east;

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AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence northerly to the S. E. corner of township 1 south, range 17 east;
Thence easterly along the southerly line of township 1 south to the
Intersection of the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the intersection
of the Utah/Colorado border and the southerly line of township 7
south;
Thence westerly along the southerly line of township 7 south to the S.W.
corner of township 7 south, range 20 east;
Thence southerly to the S.E. corner of township 8 south, range 19 east;
Thence westerly along the southerly line of township 8 south to the S. E.
corner of township 8 south, range 12 east;
Thence southerly along the easterly line of range 12 east to the S. E.
corner of township 20 south, range 12 east;
Thence westerly along the southerly line of township 20 south to the S.E.
corner of township 20 south, range 3 east;
Thence southerly along the easterly line of range 3 east to the S.E. corner
of township 27 south, range 3 east;
Thence westerly to the intersection of the southerly line of township 27
south and the Salt Lake Meridian, thence southerly along the Salt Lake
Meridian to the intersection of the Salt Lake Meridian and the southerly
line of township 39 south;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of
township 39 south, range 2 west;
Thence southerly to the S.E. corner of township 41 south, range 2 west;
Thence westerly to the S.E. corner of township 41 south, range 3 west;
Thence southerly along the easterly line of range 3 west to the Utah/
Arizona border;
Thence westerly along the Utah/Arizona border to the Utah/Arizona/
Nevada border;
Thence northerly along the Utah/Nevada border to the point of beginning;
commencing at the intersection of the Utah/Colorado border and the
southerly line of township 34 south;
Thence westerly to the S.W. corner of township 34 south, range 21 east;
Thence northerly to the S.W. corner of township 29 south, range 21 east;
Thence westerly to the S.W. corner of township 29 south, range 19 east;
Thence northerly to the N.W. corner of township 23 south, range 19 east;
Thence easterly to the N.W. corner of township 23 south, range 12 east;
Thence northerly to the N.W. corner of township 21 south, range 22 east;
Thence easterly to the N.E. corner of township 21 south, range 24 east;
Thence southerly to the N.E. corner of township 31 south, range 24 east;
Thence easterly along the northerly line of township 31 south, to the
Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the point of beginning

AREA 2: All areas not included in Area 1 as defined.

SUPERSEDES DECISION

STATE: Vermont
DECISION NO. VT78-2091

COUNTIES: Bennington, Caledonia, Essex, La-
moille, Orange, Rutland, Washington, Wind-
ham, and Windsor

Supersedes Decision No. VT76-2170 (above counties only), dated December 10, 1976
in 41 FR 54146.
DATE: Date of Publication
DESCRIPTION OF WORK: Highway Construction (and airport runway and taxiway con-
struction, but does not include bridges over navigable water; tunnels; buildings
in highway rest areas; and railroad construction).

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Carpenters:					
Bennington County	\$6.36	.40	.50		.04
Rutland County	6.55				
Windham County	6.20				
Windsor County	6.17				
Remainder of Counties	6.65	.35	.30		
Cement masons:					
Rutland County	5.75				
Caledonia and Essex	7.75	.35	.50		.05
Lamoille and Washington	6.65	.35	.30		
Ironworkers:					
Reinforcing:	6.66	.24			.05
Structural	7.40	.45	.60		
Laborers:					
Bennington	3.95				
Rutland	3.98				
Windham	4.52				
Remainder of Counties	3.85	.15		a	
Asphalt takers:					
Rutland	4.48				
Windsor	4.35				
Blasters/powdermen:					
Bennington	5.53				
Caledonia	5.15				
Essex	5.56				
Lamoille (Blasters/powdermen)	4.86/5.65				
Chain saw ops:					
Bennington	4.90				
Caledonia, Lamoille	5.00				
Essex	5.52				
Drillers:					
Bennington	4.85				
Essex	5.00				
Caledonia and Lamoille	5.00	.15		a	
Washington	5.33				
Pipelayers:					
Caledonia	4.10	.15		a	
Air tool operators:					
Caledonia, Essex, Lamoille, Orange, and Washington	4.10	.15		a	

DECISION NO. VT78-2091

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pilddrivermen: Caledonia	.35	.30		
Truck Drivers: 2 axle: Bennington, Essex, Lamoille, Orange, Washington, Windham, and Windsor				
3 axle: Rutland				
Remainder of Counties				
Specialized earth moving equip.: Bennington				
Caledonia, Essex, and Lamoille				
Auger/Post driver: Bennington, Essex, and Windsor				
POWER EQUIPMENT OPERATORS: Backhoe: Bennington, Lamoille, Orange, Washington, and Windham				
Caledonia and Essex				
Rutland				
Broom: Lamoille and Orange				
Bulldozer: Bennington, Lamoille, Orange, and Windham Counties				
Windsor				
Rutland				
Remainder of Counties				
Compactor: Caledonia				
Essex				
Lamoille				
Washington				
Compressor: Bennington				
Caledonia				
Essex				
Lamoille				
Crane: Essex, Lamoille, & Washington				

DECISION NO. VT78-2091

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
Gradall: Bennington	.35	.50	b	.05
Lamoille	.35	.50	b	.05
Grader: Bennington, Lamoille, and Washington				
Essex	.35	.50	b	.05
Rutland	.35	.50	b	.05
Caledonia	.35	.70	b	.05
Farm-type hoe & bucket (Lamoille)	.35	.50	b	.05
Front-end Loaders: Bennington	.80	.75	b	.05
Caledonia	.55	.70	b	.05
Lamoille & Washington	.35	.50	b	.05
Essex	.55	.70	b	.05
Rutland	5.025			
Windsor	7.76			
Mechanic: Rutland	5.23			
Windsor	7.76			
Bennington, Essex, Lamoille, and Washington	7.75	.50	b	.05
Oilers: Caledonia	6.80	.70	b	.05
Essex	6.75	.70	b	.05
Lamoille	6.65			
Pavers: Bennington	7.33			
Rutland	4.30			
Windsor	7.76			
Caledonia (self-powered)	8.20	.70	b	.05
Essex, Lamoille, Orange, Washington, Windham	7.75	.50	b	.05
Rollers: Bennington	9.82			
Rutland	4.30			
Windham	7.46			
Windsor	7.76			

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DECISION NO. VT78-2091

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Rollers (Cont.):						
Caledonia	\$8.20	.55	.70	b	.05	
All other counties	7.75	.35	.50	b	.05	
Roller (self-powered)-Caledonia	7.65	.55	.70	b	.05	
Scrapers:						
Bennington	8.50	.80	.75	b	.05	
Caledonia, Lamolille, & Essex	8.20	.55	.70	b	.05	
Shovels:						
Bennington	8.75	.80	.75	b	.05	
Caledonia, Lamolille, and Essex	8.65	.55	.70	b	.05	
Spreaders:						
Essex, Orange, and Lamolille	7.75	.35	.50	b	.05	
Caledonia (Self-propelled)	7.65	.55	.70	b	.05	
Line Strippers	6.75					
Footnotes:						
a. 2 paid holidays: Memorial Day & Independence Day, provided the employee has been employed for at least 7 days or more prior to the holiday and has worked the day before and the day after the holiday.						
b. 9 paid holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, and Veterans' Day, provided the employee has been employed for at least 7 days or more prior to the holiday and has worked the day before and the day after the holiday.						

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FRIDAY, OCTOBER 6, 1978

PART III



**DEPARTMENT OF
AGRICULTURE**

**Agricultural Marketing
Service**

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POSTED STOCKYARDS

Rates and Charges

[3410-02]

Title 9—Animals and Animal Products

CHAPTER II—AGRICULTURAL MARKETING SERVICE (PACKERS AND STOCKYARDS), DEPARTMENT OF AGRICULTURE

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

Posted Stockyards; Rates and Charges

AGENCY: Packers and Stockyards—Agricultural Marketing Service, Department of Agriculture.

ACTION: Statement of general policy.

SUMMARY: On March 30, 1978, Packers and Stockyards—AMS issued a proposed statement of general policy and revisions to the regulations issued under the Packers and Stockyards Act (7 U.S.C. 181 et seq.) (43 FR 13488). Comments were elicited and considered in connection with the new statement of general policy which follows. The new policy reduces the Department's regulations of stockyard rates and charges by providing that the agency will not investigate the reasonableness of rates and charges stockyard operators and market agencies assess livestock producers unless a valid complaint is filed with the Department or compelling circumstances warrant such an investigation. Stockyard operators and market agencies must post current tariffs in a place at the market conspicuous to consignors and file a copy with the Department. At least 10 days before tariffs are to be altered, the new rates and charges must be posted in a place at the markets conspicuous to consignors, and a copy filed with the Department. The proposed September 30, 1978, deadline for conversion to per head rates is rescinded since Congress has enacted legislation authorizing percentage tariffs.

EFFECTIVE DATE: Policy statement will be effective October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack W. Brinckmeyer, Chief, Rates, Services, and Facilities Branch, Livestock Marketing Division, Packers and Stockyards, AMS, USDA, Washington, D.C. 20250, 202-447-4336.

SUPPLEMENTARY INFORMATION: On March 30, 1978, a notice of a proposal was published in the FEDERAL REGISTER (43 FR 13488) concerning rates and charges at posted stockyards. Over 700 comments were filed in response to the notice. More than 500 comments were from firms subject

to the Packers and Stockyards Act. Livestock producers and producer organizations filed over 170 comments. The remainder were from bankers, accountants, Members of Congress, and others.

I. ANALYSIS

Some of the comments received opposed any form of regulation of rates while some opposed any reduction in regulation. Under the currently effective provisions of the Packers and Stockyards Act and case law, the Department is precluded from total deregulation of rates.

The proposed policy statement and revision of the regulations would have required a 30-day notice to livestock consignors before a tariff would be accepted for filing. The 30-day period was designed to allow consignors time to file any complaints they might have with the Department. Comments from most stockyard operators, some market agencies, and some auction markets opposed any additional notice requirements beyond those currently contained in the Act because they said the 30-day requirement would increase operating costs and would invite complaints from livestock producers concerning tariff charges. Some comments supported the notice requirement. The 30-day notice proposal has not been adopted since the majority of the comments were opposed to lengthening the notice period; the statute now requires only a 10-day notice period; and interested persons may file complaints during the 10-day period or thereafter.

Under the currently effective provisions of the Act, all market agencies conducting business at a terminal stockyard are required to assess rates and charges under the same tariff schedule. Comments received from market agencies at terminal stockyards in response to the Department's proposed decrease in rate regulation opposed any change in this respect. The legislative history of the recent amendments of the Act (Pub. L. 95-409) makes it clear that the amendments do not change the authority of the Secretary to prescribe or require uniform rates and charges by all market agencies operating at a particular stockyard. Accordingly, no change is being made in the requirement for uniform rates and charges at a particular stockyard. The rulemaking proposal published on March 30, 1978, included a requirement that all tariffs be on a per head basis on or before September 30, 1978. Legislation enacted by the Congress authorizes percentage tariffs. Therefore, the September 30, 1978, conversion deadline is rescinded. Tariffs containing percentage charges will be accepted for filing.

II. EFFECT ON EXISTING PROGRAM

The present rate regulation program of the Department involves investigation of the business activities of each firm on an individual basis to determine if the rates and charges are just, reasonable, and nondiscriminatory. The investigation determines fair return on investment, reasonable expenses for operating the business, and compensation for any personal services that may be furnished by the owner. Rates and charges are established to provide funds to cover these costs of providing stockyard services. The policy to be established will eliminate the investigation process concerning the reasonableness of the rates and charges except when a valid complaint is filed or compelling circumstances warrant such an investigation. The notice proposed that there be no investigation unless a valid complaint is filed. However, in view of the duty imposed by the statute, it is found necessary to amend the proposal by providing for investigation under compelling circumstances in the event unforeseen circumstances develop requiring an investigation in order to fulfill the statutory duty.

Based on statements received by the Department at oral hearings in early 1978 and other data, it is likely that the new procedure will result in some increases in market charges. Many witnesses believed, however, that sufficient competition exists between markets to hold charges at a reasonable level.

The Deputy Administrator issues a new statement of general policy designated as 9 CFR 203.17 as set forth below.

Dated: October 3, 1978.

CHAS B. JENNINGS,
Deputy Administrator,
Packers and Stockyards, AMS.

A new statement of general policy 203.17 (9 CFR 203.17) is issued to read as set forth below:

§ 203.17 Statement of general policy with respect to rates and charges at posted stockyards.

(a) Requests have been received from stockyard operators, market agencies, and livestock producers urging a reduction of rate regulation at posted stockyards. Their requests are based on the belief that competition among markets will set a level of rates and charges fair to both the market operator and to the livestock producer. Packers and Stockyards—AMS will accept for filing tariffs containing any level of charges after ten (10) days' notice to the public and to the Secretary as required by the Act.

(b) Packers and Stockyards—AMS will not investigate the level of the

rates and charges established by stockyard owners and market agencies for reasonableness except upon receipt of a valid complaint or under compelling circumstances warranting such an investigation. Stockyard owners and market agencies will have substantial flexibility in setting their own rates and charges.

(c) Rates and charges for market agencies operating on the same posted stockyard shall be assessed under the same tariff.

(d) Complaints filed about the reasonableness of rates and charges will be investigated to determine the validity of such complaints and appropriate action taken if warranted.

(e) Packers and Stockyards—AMS will continue to insure that the schedules of rates and charges filed with the Department are applied uniformly and in a nondiscriminatory manner.

(f) Sections 201.17 through 201.26 of the regulations issued under the Act pertaining to schedules of rates and charges will be amended as appropriate to conform with this policy statement.

[FR Doc. 78-28282 Filed 10-5-78; 8:45 am]

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FRIDAY, OCTOBER 6, 1978
PART IV



**NUCLEAR
REGULATORY
COMMISSION**



FLOODPLAINS PLANS

**Compliance with Executive Order
11988 to Revise Regulatory
Guidelines**

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.
Interior Department, Bureau of Land Management...	Sept. 28	44798
Commerce Department, Office of the Secretary...	Sept. 29	45284
Transportation Department, Office of the Secretary.	Sept. 29	45285

[7590-01]

**NUCLEAR REGULATORY
COMMISSION****COMPLIANCE WITH E.O. 11988 ON
FLOODPLAINS****Plans to Revise Regulatory Guides**

Executive Order 11988 expresses the policy of the Federal Government that Federal agencies should attempt to reduce the risk of flood loss and to minimize the effects of floods by avoiding, where practicable, development in floodplains. Under the order, Federal agencies with responsibilities for conducting Federal activities and programs affecting land use are required to evaluate the potential effects of any action they might take in a floodplain. In addition, each agency is to amend its regulations within one year to comply with the order and must explain what means the agency will employ to pursue non-hazardous uses of riverine, coastal, and other floodplains in connection with the ac-

tivities under its authority. The NRC staff routinely considers the environmental impact of its action pursuant to the requirements of the National Environmental Policy Act of 1969, as amended (NEPA). The NRC believes that the procedures and purposes of the order can be appropriately accommodated as a part of the agency's compliance with NEPA. NRC's NEPA regulations in 10 CFR Part 51 do not specify in detail the kinds of environmental considerations that are to be addressed in the NEPA review. However, these matters are addressed in regulatory guides and other staff documents. The NRC has identified the following regulatory guides and related staff documents for revision to specifically include floodplain considerations:

1. Regulatory Guide 4.2: Preparation of Environmental Reports for Nuclear Power Stations (Revision 2).
2. Regulatory Guide 4.7: General Site Suitability Criteria for Nuclear Power Stations (Revision 1).
3. Regulatory Guide 3.8: Preparation of Environmental Reports for Uranium Mills.

4. NUREG-0180: Early Site Review, Procedures and Possible Technical Review Options.

5. NUREG-0158: Draft Environmental Standard Review Plans for the Environmental Review of Construction Permit Applications for Nuclear Power Plants.

Regulatory guides are periodically revised to reflect public comments and licensing experience. As each of the above guides is revised, floodplain considerations will be incorporated into the revision. Also, as new guides and regulations are developed, floodplain considerations will also be included. In the meantime, specific technical instructions have been given to NRC staff that will result in floodplain considerations being included in individual licensing reviews.

Dated at Washington, D.C., this 28th day of September, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-28550 Filed 10 5-78; 8:45 am]

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