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# federal register

FRIDAY, JANUARY 5, 1979


## highlights



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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| DOT/COAST GUARD | USDA/ASCS | | DOT/COAST GUARD | USDA/ASCS |
| DOT/NHTSA | USDA/APHIS | | DOT/NHTSA | USDA/APHIS |
| DOT/FAA | USDA/FNS | | DOT/FAA | USDA/FNS |
| DOT/OHMO | USDA//FSQS | | DOT/OHMO | USDA/FSQS |
| DOT/OPSO | USDA/REA | | DOT/OPSO | USDA/REA |
| CSA | MSPB*/OPM* | | CSA | MSPB*/OPM* |
| | LABOR | | | LABOR |
| | HEW/FDA | | | HEW/FDA |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

federal register

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## INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202-523-5240.**

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### HIGHLIGHTS—Continued

# reminders

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

### Rules Going Into Effect Today

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

### List of Public Laws

NOTE: A complete listing of all public laws from the second session of the 95th Congress was published as Part II of the issue of December 4, 1978. (Price: 75 cents. Order by stock number 022-003-00960-4 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, Telephone 202-275-3030.)

The continuing listing will be resumed upon enactment of the first public law for the first session of the 96th Congress, which will convene on Monday, January 15, 1979.

# contents

# list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

## CUMULATIVE LIST OF CFR PARTS AFFECTED DURING JANUARY

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during January.**

## FEDERAL REGISTER PAGES AND DATES—JANUARY

| *Pages* | *Date* |
|---|---|
| 1–748 | Jan. 2 |
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| 1071–1355 | 4 |
| 1357–1696 | 5 |

# rules and regulations



[6110-01-M]

## Title 1—General Provisions

## CHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

## PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### Miscellaneous Amendments

AGENCY: Administrative Conference of the United States.

ACTION: Recommendation.

SUMMARY: The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571-576, to study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and to make recommendations for improvement to administrative agencies, collectively or individually, to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574 (1)). The Administrative Conference of the United States at its Eighteenth Plenary Session, held December 14-15, 1978, adopted one recommendation. Recommendation 78-4 calls upon agencies which have authority to issue mandatory health or safety regulations to draw on the knowledge and information available in private organizations that develop voluntary consensus standards. Agencies are urged to coordinate their standards-development activity with such organizations where they exist. Agencies should also consider the use of existing relevant voluntary consensus standards in developing mandatory standards, but with due caution and on a case-by-case basis.

DATES: This recommendation was adopted December 14-15, 1978, and issued December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard K. Berg, Executive Secretary, 202-254-7065.

1. The table of contents to Part 305 of Title 1, Chapter III, CFR is amended to add the following section:

Sec.

305.78-4 Federal agency interaction with private standard-setting organizations in health and safety regulation (recommendation No. 78-4).

2. Section 305.78-4 is added to Part 305 to read as follows:

**§ 305.78-4 Federal agency interaction with private standard-setting organizations in health and safety regulation (recommendation No. 78-4).**

(a) Many federal agencies have authority to issue mandatory health or safety regulations relating to products, materials, processes, practices or services that may be the subjects of voluntary standards prepared by non-governmental organizations. Non-governmental standards, though not legally enforceable, have in fact gained wide acceptance and a high degree of observance. Many voluntary standards are developed, reviewed, and periodically revised by technical committees of such non-governmental organizations that follow open and regular procedures, including a process for considering and attempting to resolve negative comments. Membership on technical committees may be broadly based and "balanced" in an effort to assure representation of varying points of view and avoidance of domination by a single interest. Some standards-developing organizations provide a review mechanism to assure compliance with prescribed procedures and an appropriately balanced membership. Standards developed by private organizations that generally observe such procedures, or under the Department of Commerce voluntary standards program, are frequently referred to as "voluntary consensus standards," and are the subject of this recommendation. This recommendation is directed toward the manner in which agencies should interact with non-governmental organizations that develop voluntary consensus standards and the manner in which agencies should utilize such standards for health and safety regulation.

(b) Not all voluntary standards are developed through the consensus process just outlined. Other kinds of voluntary standards—for example, those developed by trade associations or other organizations through nonconsensus procedures—may be valuable for regulatory use by federal agencies, but are not treated by this recommendation. Also, the recommendation does not address the development of international standards.

(c) Members of technical committees that develop voluntary consensus standards often have a wealth of technical knowledge and expertise that agency staffs do not possess. Agency participation in or cooperation with those technical committees may result in the development of standards that adequately address considerations of health or safety more efficiently and effectively than if the agency seeks independently to formulate standards. The fact that a standard has been developed by an organization that uses consensus processes, however, does not of itself assure that it is appropriate for regulatory use. For example, some standards were developed at a time when less open procedures were followed, or when the state of relevant knowledge was less advanced, than at present. Some standards were developed without relevant accident and injury information. Some organizations and committees preparing voluntary consensus standards may not always have an adequate representation of varying interests; in particular, there are problems in obtaining effective representation of and participation by certain significant interests, especially consumers, employees, small business, and certain noneconomic interests that agencies may be charged with protecting.[1] Moreover, the process of seeking consensus followed by some standards-developing organizations often may create standards that are acceptable for business interests but may not be suitable for regulatory use.

(d) Consequently, the appropriateness of particular voluntary consensus standards for use by an agency in the development of mandatory health or safety regulations should be determined on a case-by-case basis. Of course, before adopting any mandatory standard, the agency should identify a need for doing so.

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[1] The Conference is aware that the concept of representing identified "interests" in private standards-developing organizations is a complex one, involving considerations such as what may be identifiable as an interest, its relevancy, its internal homogeneity, its capacity to be represented by knowledgeable spokesmen, and its political strength.

(e) Questions have been raised as to the possible applicability of the Federal Advisory Committee Act to technical committees and standards-developing organizations. The FACA should not apply to the technical committees and standards-developing organizations contemplated by this recommendation, which ordinarily are privately organized and operated primarily for purposes independent of advising the federal government. It would be injurious to the operation of such organizations, and to their willingness to cooperate with federal agencies, to apply to them certain provisions of the FACA which assume federal sponsorship and control of committees subject to the Act. Examples include the vesting of authority in federal employees to approve and terminate meetings and to approve the agenda of meetings, and of authority in the General Services Administration to conduct annual reviews which can result in recommendations to restructure or even abolish committees. The recommendation calls upon Congress to amend the FACA to make explicit that it does not govern the technical committees and standards-developing organizations here addressed. Of course, several principles reflected in the FACA—such as balanced membership and open decisionmaking—represent important criteria for agencies to take into account when considering the use of standards developed by such organizations (see paragraph 6(c)).

(f) The recommendation that follows is limited to agency interaction with standards-developing organizations and use of voluntary consensus standards in the context of regulation of health or safety.[2] The recommendation may nevertheless be significant in relation to setting standards for other purposes: For example, in conservation of energy and resources, environmental issues, and formulation of test methods and definitions. Agencies that use voluntary consensus standards in contexts other than health or safety regulation are urged to consider the recommended measures set forth below and to follow them to the extent appropriate. However, the recommendation is not intended to have application to the use of voluntary standards in government procurement, as to which less elaborate procedures may be appropriate in many cases.

[2]The concept of "regulation of health or safety" for purposes of this recommendation is not intended to encompass all agency functions aimed at health and safety concerns. For example, the recommendation does not deal with requirements relating directly to the qualifications or conduct of individuals engaged in the performance of professional services in areas of health or safety, or regulations that impose preconditions on eligibility for federal funding programs.

## Recommendation

### Coordination and Cooperation With Standards-Developing Organizations

1. An agency having authority to issue mandatory health or safety regulations should draw on the knowledge and information available in active technical committees that develop relevant voluntary consensus standards, and should interact in accordance with this recommendation with technical committees that follow procedures that are substantially in accord with the criteria of paragraph 6(c).

(a) To the extent that staff resources permit, the agency should arrange for an appropriately qualified employee to serve on each technical committee in which the agency has a significant interest. An employee so serving should serve as a representative of the agency rather than in an individual capacity or as a representative of some other designated "interest."[3] Where separate representatives of several agencies may result in an imbalance on the committee, the agencies should seek to agree on a common representative or on the attendance of some agency personnel as observers. The representative's function should be to act as liaison to the committee, to monitor and participate in its standards-writing activities, and to provide information and communicate the views of the agency relative to the standards being developed and the procedures followed by the technical committee. The representative should have no authority to vote or to bind the agency to any specific proposal. An agency employee who has participated in a technical committee's development of a standard may thereafter participate in the agency's decisionmaking process by providing information and advice, but should not otherwise participate in making the agency's decision on whether to adopt or to revise that standard unless the agency has no other personnel with the requisite knowledge and expertise.

(b) When considering whether to modify an existing mandatory health or safety standard or to develop a new mandatory standard, the agency should normally ask an appropriate technical committee, if an active one exists, to consider the matter and the data bearing on the possible need for a modification or a new standard. This should be done before the agency independently publishes a modification or new standard as a proposed regulation. The agency should announce the referral in an advance notice of proposed rulemaking which describes the interaction between the agency and the technical committee and explains how the views of the interested public may be communicated to the committee. If the technical committee promptly takes steps to develop an appropriate new voluntary consensus standard or to modify a relevant voluntary consensus standard in a manner acceptable to the agency, or presents an appropriate existing standard, the agency may incorporate the standard into its regulations, or may determine that governmental action is not needed (see paragraph 7). If, however, the committee does not respond promptly or adequately and the agency determines that regulatory action is needed, the agency should proceed independently to develop a mandatory standard. In determining whether to request the assistance of a technical committee or to defer development of a regulation pending action by a technical committee, the agency should take into account the need for prompt development of the standard and whether committee consideration may be obtained promptly.

(c) The relationship between the agency and the technical committee should be a cooperative one, and the agency should not seek to dominate the committee.

(d) In their published rulemaking notices relating to voluntary consensus standards, agencies should describe their interactions with the technical committees involved.

(e) Congress should amend the Federal Advisory Committee Act to state explicitly that the technical committees and standards-developing organizations of the sort addressed by this recommendation, which are privately organized and operated primarily for purposes independent of advising federal agencies, are not within the definition of "advisory committee" for purposes of that Act.

2. In appropriate cases the agency should provide its available technical information, data on health or safety concerns, and other relevant material and information to the technical committee. The agency may also provide financial and other support for the committee when such action is legally permissible and is in furtherance of the agency's mission and responsibility.

3. If an active relevant technical committee exists, an agency undertaking to develop standards "in-house" should coordinate its efforts with the committee as outlined in paragraphs 1 and 2, unless the agency has strong reasons to believe the committee can make no useful or timely contribution to the development of an adequate standard.

4. Each agency should, as a matter of general policy, regularly review standards or revisions proposed by technical committees active in the areas of regulatory concern of the agency, and should advise such committees on a regular and informal basis whether the proposed standards and revisions appear to be consonant with the agency's regulatory responsibilities.

5. Agencies should adopt and publish regulations or policy statements implementing the procedures outlined in paragraphs 1 through 4 and describing the manner in which agency representatives are to be designated and the authority they are to possess.

### Use of Existing Voluntary Consensus Standards in Regulation

6. Agencies with authority to issue health or safety regulations should consider the use of existing relevant voluntary consensus standards in developing mandatory standards. Voluntary consensus standards should be considered with due caution and on a case-by-case basis. Ordinarily, standards which embody judgmental factors should receive greater scrutiny when being considered by agencies for adoption into regulations than standards which specify nomenclature, basic reference units, or methods of measurement or testing, and which are primarily empirical in their formulation. In evaluating a voluntary consensus standard

[3]This paragraph should not be construed as indicating disapproval of the common present practice of permitting agency employees serving with the consent of their agencies on technical committees in their individual capacities or as representatives of some other designated "interest" rather than as agency representatives.

each agency should consider the following factors:

(a) The apparent suitability of the voluntary consensus standard for use as a mandatory standard, including:

(i) The problems addressed by the standard and changes in the state of knowledge since the standard was prepared or last revised;

(ii) The extent to which the standard has been complied with, and the reasons for any noncompliance;

(iii) The extent of injury, accident, or illness known to have resulted from products, materials, processes, practices or services that have conformed with the standard;

(iv) The clarity and detail of the standard's language;[4]

(v) The extent to which the standard establishes performance rather than design criteria, where feasible;

(vi) The extent to which a newly developed standard, under which little experience exists, appears adequately to address the hazards considered by the developers of the standard or known to the agency; and

(vii) The enforceability of the standard.

(b) The nature of the agency's statutory mandate to develop health or safety regulations and the consistency of the provisions of the voluntary consensus standard with that mandate.

(c) The adequacy of the procedures followed by the organization preparing the standard to assure that:

(i) The membership of the technical committee represents a broadly based and balanced array of relevant interests, including, where appropriate, representatives of consumers, labor, small business, and other affected groups, and no single interest has a dominating influence on the committee;

(ii) Reasonable notice that a proposed standard is being considered is given to interested persons and groups;

(iii) Interested persons and groups have an opportunity to participate in the deliberations and discussions relating to the standard;

(iv) Prompt and careful consideration is given to minority points of view and objections to the standard;

(v) Standards are approved by considerably more than a simple majority vote of the technical committee, although unanimity is not necessarily required;

(vi) An adequate opportunity for review is afforded to assure that fairness is protected and that dissenting views are given full consideration;

(vii) Adequate records are maintained to document that the established procedures were actually followed and that the views presented were duly considered in accordance with those procedures; and

(viii) The entire process is open to public scrutiny and review.

(d) The availability of documentation adequately describing the costs and benefits, the rationale for and method of arriving at the critical requirements of the standard, and other factors actually considered by the technical committee in developing or revising the voluntary consensus standard.

(e) The number of negative voters and the interests they represent.

(f) Possible anti-competitive effects that may arise from the use of the voluntary consensus standard.

7. Subject to the procedural requirements of 5 U.S.C. 553 or other relevant statutes, a voluntary consensus standard that appears to be partially or wholly suitable for use as a regulation may be adapted by an agency in various ways.:

(a) If the voluntary consensus standard adequately addresses the questions of health or safety and is being substantially complied with by the affected industry, the agency may decide to take no further regulatory steps, or, alternatively, to adopt the standard into its regulations (see paragraph (f) below), and direct its primary regulatory efforts elsewhere. If, under these circumstances, the agency decides to take no further regulatory steps, it should publish that decision and the reasons therefor in the FEDERAL REGISTER. The agency should thereafter review periodically the continued adequacy of the standard and the extent of compliance with it by the affected industry.

(b) If the voluntary consensus standard adequately addresses the questions of health or safety, but there has not been substantial compliance with the standard by the affected industry, or if the industry is so scattered and diffuse that it is difficult to ascertain compliance, then the agency should adopt the standard into its regulations. Where the standard is new, the agency may defer a decision for a reasonable period to observe the effects of the standard.

(c) If the voluntary consensus standard adequately addresses the questions of health or safety but the language of the standard lacks the clarity or detail appropriate for a regulatory standard, then the agency should accept the substantive provisions of the voluntary consensus standard and seek to develop the needed clarity or detail by working with the technical committee. Only if this is unsuccessful or impractical should the agency alone reformulate the standard. In evaluating whether a voluntary consensus standard is appropriately detailed, the agency should consider the extent to which other regulatory authorities have adopted the standard and have then succeeded in enforcing it.

(d) If the voluntary consensus standard does not adequately address the pertinent questions of health or safety, the agency should seek to develop an adequate standard with the assistance of the relevant technical committee by following the procedures described in paragraph 1(b).

(e) Agencies should consider the "regulatory guide" approach as a means of effectively making use of voluntary consensus standards. A "regulatory guide" is a formal declaration by the agency that compliance with designated portions, or all, or a voluntary consensus standard will be considered an acceptable method of compliance with a general mandatory standard appearing in either the governing statute or the agency's regulations. When taking this approach, the agency should suitably publicize its decision and reasons therefor.

(f) The agency may adopt a voluntary standard into its regulations either by placing the text of the standard in the regulations, or, preferably, by incorporating the standard by reference pursuant to 1 CFR Part 51.

8. Each regulatory agency must take special care to avoid needless inconsistencies between voluntary and mandatory standards, as well as to remain abreast of technological change. An agency that has adopted a voluntary consensus standard into its regulations must therefore be aware of and must promptly review all late revisions initiated by the technical committees. If a revision is consistent with the agency's regulatory responsibilities, the agency should promptly proceed under its rulemaking authority to amend its prior standard by adopting the latest revision. Such procedures should provide for coordinated consideration by all agencies that have adopted the standard.

REVISIONS OF STANDARDS THAT HAVE BEEN INCORPORATED BY REFERENCE BY MORE THAN ONE AGENCY

9. Where a voluntary consensus standard has been incorporated by reference by two or more agencies, the Office of the Federal Register should develop, and implement in the form of a regulation, a procedure by which such agencies may elect in advance to have all proposed changes in such voluntary consensus standard reviewed pursuant to the following procedure:

(a) A notice of proposed rulemaking, prepared by or under the direction of the Office of the Federal Register, should be published under the name of each electing agency in accordance with the notice and comment requirements of 5 U.S.C. 553, so that each agency's standard can be revised promptly in accord with revisions subsequently approved by the promulgating organizations. The notice should also direct that all comments on the proposed revision be sent to each electing agency as well as to the promulgating organization. The Office of the Federal Register should coordinate the distribution of comments if the number of electing agencies is large.

(b) Each electing agency should promptly review each proposed revision to the referenced standard in the light of the comments received, and should then determine whether or not to adopt the revision when it has been finally approved by the promulgating organization. Adoption of the revised standard should be formally announced and should be officially published, without further public opportunity to comment.

10. In order to implement paragraph 9, the Office of the Federal Register should promptly ascertain all incorporations by reference of voluntary standards that have been made in the Code of Federal Regulations and are currently in effect.

Dated: December 29, 1978.

RICHARD K. BERG,
*Executive Secretary.*

[FR Doc. 79-423 Filed 1-4-79; 8:45 am]

[4]The wording of a standard may contain too much detail as well as too little.

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[6325-01-M]

## Title 5—Administrative Personnel

## CHAPTER I—CIVIL SERVICE COMMISSION

## PART 213—EXCEPTED SERVICE

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The Civil Service Commission as listed below: (1) Excepts under Schedule C certain positions because they are confidential in nature. Appointments may be made to these

positions without examination by the Civil Service Commission. (2) Changes the title of certain positions to reflect the current duties of the position, the current title of the superior or an organizational redesignation and (3) revokes certain positions because they have been vacant for more than 60 days.

EFFECTIVE DATES: Executive Office of the President, 213.3303(a)(2), (21)—December 27, 1978.

Department of State, 213.3304(a)(5), (16), (28)—December 5, 1978, (a)(29)—December 8, 1978, (a)(34)—December 22, 1978.

Department of the Interior, 213.3312(h)(7), and (8)—November 21, 1978, (h)(9)—December 22, 1978, (h)(10)—December 29, 1978, (n)(3)—December 8, 1978.

Department of Agriculture, 213.3313(n)(5)—December 27, 1978.

Department of Commerce, 213.3314(a)(34)—November 29, 1978, (n)(1)—December 8, 1978, (w)(4)—December 5, 1978.

Department of Labor, 213.3315(a)(48) and (63)—December 1, 1978.

Department of Health, Education, and Welfare, 213.3316(c)(23)—December 4, 1978.

Overseas Private Investment Corporation, 213.3317(f)—November 20, 1978.

Department of Energy, 213.3331(a)(8)—December 29, 1978, (f)(2)—November 29, 1978.

General Services Administration, 213.3337(b)(2)—December 23, 1978.

International Trade Commission, 213.3339(e)—November 20, 1978.

National Aeronautics and Space Administration, 213.3348(w)—December 19, 1978.

Federal Mine Safety and Health Review Commission, 213.3351(c), (d)—November 21, 1978.

ACTION, 213.3359(dd)—November 24, 1978, (ee)—December 4, 1978.

Administrative Office of the U.S. Courts, 213.3372(b)—December 5, 1978.

Community Services Administration, 213.3373(m)(2)—November 21, 1978.

National Foundation on the Arts and the Humanities, 213.3382(e), (o), and (z)—December 13, 1978.

Department of Housing and Urban Development, 213.3384(b)(20), (21)—December 6, 1978, (o)(1)—November 24, 1978.

Department of Transportation, 213.3394(a)(26)—November 21, 1978, and December 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213 is amended by: (1) revising the following: 213.3303(a)(2), 213.3304(a)(5), (16), (28), (29), 213.3312(h)(7), 213.3314(a)(34), (n)(1), 213.3315(a)(48), (63), 213.3331(a)(8), (f)(2), 213.3337(b)(2), 213.3339(e), 213.3384(b)(20), and 213.3394(a)(26);

(2) Adding the following: 213.3303(a)(21), 213.3304(a)(34), 213.3312(h)(8), (9), (10), (n)(3), 213.3313(n)(5), 213.3314(w)(4), 213.3316(c)(23), 213.3317(f), 213.3348(w), 213.3351(c)(d), 213.3359(dd), (ee), 213.3372 (b), 213.3373(m)(2), 213.3382(z) and 213.3384(o);

(3) Revoking the following: 213.3392(e)(o), and 213.3384(b)(21).

**§ 213.3303 Executive Office of the President.**

(a) *Office of Management and Budget.* * * *

(2) One Special Assistant to the Deputy Director. * * *

(21) One Deputy Assistant Director for Congressional Relations.

* * * * *

**§ 213.3304 Department of State.**

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

(5) One Special Assistant to the Under Secretary for Management. * * *

(16) One Secretary (Steno) to the Under Secretary for Management. * * *

(28) Two Staff Assistants to the Under Secretary for Management.

(29) Five Members of the Policy Planning Staff. * * *

(34) One Special Advisor to the Assistant Secretary for Inter-American Affairs.

* * * * *

**§ 213.3312 Department of Interior.**

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(h) *National Park Service.* * * *

(7) One Special Assistant to the Deputy Director.

(8) One Staff Assistant to the Director.

(9) Director, Heritage Conservation and Recreation Service.

(10) Chief, Office of Legislation.

* * * * *

(n) *Bureau of Reclamation.* * * *

(3) One Public Information Officer to the Commissioner.

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**§ 213.3313 Department of Agriculture.**

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(n) *Agricultural Economics.* * * *

(5) One Private Secretary to the Deputy Director.

* * * * *

**§ 213.3314 Department of Commerce.**

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

(34) One Deputy Director, one Special Assistant and one Special Assistant for Field Activities, Office of Public Affairs.

* * * * *

(n) *Office of the Assistant Secretary for Science and Technology.*

(1) Three Special Assistants to the Assistant Secretary for Science and Technology.

* * * * *

(w) *Industry and Trade Administration.* * * *

(4) One Confidential Assistant to the Deputy Assistant Secretary for East-West Trade.

* * * * *

**§ 213.3315 Department of Labor.**

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

(48) One Executive Assistant and one Special Assistant to the Assistant Secretary for Employment Standards. * * *

(63) One Special Assistant to the Deputy Assistant Secretary for Employment Standards.

* * * * *

**§ 213.3316 Department of Health, Education, and Welfare.**

* * * * *

(c) *Office of Education.* * * *

(23) One Assistant Commissioner for Comprehensive School Health.

* * * * *

**§ 213.3317 Overseas Private Investment Corporation.**

* * * * *

(f) One Assistant to the Vice President for Public and Congressional Affairs.

* * * * *

**§ 213.3331 Department of Energy.**

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

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

* * * * *

(f) *Office of the Inspector General.* * * *

(2) One Confidential Assistant (Secretary) to the Deputy Inspector General.

* * * * *

§ 213.3337 General Services Administration.

* * * * *

(b) *Public Buildings Service.* * * *

(2) Four Confidential Assistants to the Commissioner.

* * * * *

§ 213.3339 International Trade Commission.

* * * * *

(e) One Professional Assistant (Legal), one Confidential Assistant, two Staff Assistants, and one Secretary (Typing) to a Commissioner.

* * * * *

§ 213.3348 National Aeronautics and Space Administration.

* * * * *

(w) One Secretary (Steno) to the Inspector General.

* * * * *

§ 213.3351 Federal Mine Safety and Health Review Commission.

* * * * *

(c) One Confidential Secretary to the Executive Director.

(d) One Confidential Secretary to the General Counsel.

* * * * *

§ 213.3359 ACTION.

* * * * *

(dd) One Special Assistant to the Assistant Director, Office of Recruitment and Communications.

(ee) One Deputy Assistant Director of the Office of Legislation and Governmental Affairs.

§ 213.3372 Administrative Office of the United States Courts.

* * * * *

(b) *Office of the Deputy Director.*

(1) One Chief, Division of Management Review.

§ 213.3373 Community Services Administration.

* * * * *

(m) *Office of Management.* * * *

(2) One Confidential Staff Assistant to the Assistant Director for Management.

* * * * *

§ 213.3382 National Foundation on the Arts and the Humanities.

* * * * *

(e) (Revoked)

* * * * *

(o) (Revoked)

* * * * *

(z) One Congressional Liaison Specialist.

* * * * *

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* * * *

(20) *Five Special Assistants to the Assistant Secretary—Commissioner.* * * *

(21) (Revoked)

* * * * *

(o) *Federal Insurance Administration.*

(1) One Secretary to the Administrator.

* * * * *

§ 213.3394 Department of Transportation.

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

(26) One Public Information Assistant and one Secretary (Steno) to the Director, Office of Public and Consumer Affairs.

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

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

[FR Doc. 79-455 Filed 1-4-79; 8:45 am]

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[6325-01-M]

## PART 213—EXCEPTED SERVICE

### Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Up to 3,000 temporary positions of data transcribers involved in prelist operations for the 1980 decennial census at Laguna Niguel, California, and New Orleans, Louisiana, are excepted under Schedule A because it is impracticable to examine for them. Employment in these positions may not exceed 1 year.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3114(d)(3) is added as set out below:

§ 213.3114 Department of Commerce.

* * * * *

(d) *Bureau of the Census* * * *

(3) Not to exceed 3,000 positions of data transcribers involved in prelist operations for the 1980 decennial census, to be located in processing centers at Laguna Niguel, California, and New Orleans, Louisiana. Employment under this authority may not exceed 1 year.

(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. 79-457 Filed 1-4-79; 8:45 am]

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[6325-01-M]

## PART 213—EXCEPTED SERVICE

### Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Five additional professional positions at grades GS-13 through GS-15 in the National Telecommunications and Information Administration are excepted under Schedule A because it is impracticable to examine for them.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 3114 (1)(1) is amended as set out below:

§ 213.3114 Department of Commerce.

* * * * *

(1) *National Telecommunications and Information Administration*

(1) Seventeen professional positions in grades GS-13 through GS-15.

(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. 79-458 Filed 1-4-79; 8:45 am]

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[6325-01-M]

## PART 213—EXCEPTED SERVICE

### Merit Systems Protection Board, Office of Personnel Management

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One purpose of this amendment is to reflect the establishment of the Merit Systems Protection Board and the assumption of all of the seven Schedule C positions currently existing at its predecessor agency, the Civil Service Commission. Another purpose of this amendment is to reflect the establishment of the Office of Personnel Management and the concurrent exception under Schedule C of five of its positions on the basis that all are confidential in nature. At a later date each of the aforegoing positions at the two new agencies will be individually listed in the FEDERAL REGISTER when their permanent roles in the new organizations are more sharply delineated.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3370 is revoked and §§ 213.3390 and 213.3391 are added as set out below:

§ 213.3370 Civil Service Commission. [Revoked]

* * * * *

§ 213.3390 Merit Systems Protection Board.

* * * * *

§ 213.3391 Office of Personnel Management.

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

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

[FR Doc. 79-454 Filed 1-4-79; 8:45 am]

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[6325-01-M]

## PART 213—EXCEPTED SERVICE

### Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Exception of 25 positions on the staff of the Office of New York Finance under Schedule A is continued through June 30, 1982, because the office's responsibilities have been extended by law through that date. Schedule A exception is still appropriate because it is still impracticable to examine for the positions.

EFFECTIVE DATE: December 19, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3105(h)(1) is amended as set out below:

§ 213.3105 Department of the Treasury.

* * * * *

(h) *Office of New York Finance.*

(1) Not to exceed 25 positions. Employment under this authority may not exceed June 30, 1982.

(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. 79-456 Filed 1-4-79; 8:45 am]

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[3410-30-M]

## Title 7—Agriculture

## SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

## PART 15—NONDISCRIMINATION

### Subpart B—Nondiscrimination—Direct USDA Programs and Activities

PROHIBITION OF AGE DISCRIMINATION; CORRECTION

DECEMBER 22, 1978.

AGENCY: Department of Agriculture.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 78-21825 appearing at page 34755 in the FEDERAL REGISTER of August 7, 1978, the citation of authority to issue the rule was erroneously omitted. The citation of authority should have read (5 U.S.C. 301).

FOR FURTHER INFORMATION CONTACT:

William C. Payne, Jr., Civil rights Division, Office of Equal Opportunity, Washington, D.C. 20250 (Phone: 447-4806).

(5 U.S.C. 301.)

Dated: December 22, 1978.

BOB BERGLAND,
*Secretary.*

[FR Doc. 79-418 Filed 1-4-79; 8:45 am]

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## CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amendment 29]

## PART 210—NATIONAL SCHOOL LUNCH PROGRAM

### Differential In Earning Factor

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends Part 210 to change the differential in the earning factor for reduced price lunches from 10 to 20 cents less than the factor for free lunches, with additional adjustments for States charging a maximum price of less than 20 cents for a reduced price lunch.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-8130.

SUPPLEMENTARY INFORMATION: Section 4 of Public Law 95-627 amends Section 11(a) of the National School Lunch Act by changing the differential between the earning factor for free lunches and that for reduced price lunches from 10 to 20 cents.

Prior to 1975, schools were not required by law to offer reduced price lunches. States earned for a reduced price lunch 10 cents less than the amount they earned for a free lunch, and generally passed this money through to their schools. Therefore, schools were reimbursed for a reduced price lunch 10 cents less than what they were reimbursed for a free lunch and were allowed to charge 20 cents for a reduced price lunch. In effect,

this "extra dime" incentive provision allowed schools charging the maximum price to receive 10 cents in revenue over their costs on each reduced price lunch served. Since Public Law 94-105 makes the service of reduced price lunches mandatory, an incentive provision is no longer appropriate. This rule amends Part 210 to adjust the earning factor so that revenues cover, but do not exceed, cost.

For a State that establishes a statewide uniform price for reduced price lunches which is less than 20 cents, the law allows that State's reduced price earning factor to be adjusted by that uniform price, up to 10 cents less than the free factor. To keep from penalizing students whose schools are able to charge the student less than any uniform price which a State may set, the Department has interpreted the law to allow the State to set a maximum price of less than 20 cents which no school may exceed. It is this maximum charge which will determine a State's earning factor.

To illustrate how the earning factor is adjusted, for example, if a State does not establish a statewide maximum price for reduced price lunches, its earning factor for a reduced price lunch will be 20 cents less than the earning factor for a free lunch, regardless of what prices its schools charge. If a State establishes a statewide maximum price of 15 cents for a reduced price lunch, its earning factor for a reduced price lunch will be 15 cents less than the earning factor for a free lunch. If a State establishes a statewide maximum price of 10 cents, or less than 10 cents, the earning factor for a free lunch will be adjusted by the maximum differential, 10 cents, making its earning factor for a reduced price lunch 10 cents less than the free lunch factor. The following table illustrates this example for a period when the free earning factor is 71.50 cents per free lunch.

| Statewide maximum charge | Earning differential | Earning factor for reduced price lunch |
|---|---|---|
| 15 cents | 15 cents | 56.50 cents |
| 10 cents | 10 cents | 61.50 cents |
| 5 cents | 10 cents | 61.50 cents |

This rule also removes the obsolete language in Part 210.4(B), governing the earning factors for 1974.

A related amendment to Part 245, scheduled to be effective July 1, 1979 will require States to formally establish a maximum price in their annual State prototype free and reduced price policy statement, if they wish to obtain the adjusted reduced price earning factor. For the current school year, States which have not established a maximum reduced price lunch charge of less than 20 cents may do so through the following procedure: (1) notifying the appropriate FNS Regional Office in writing what maximum price the State has established, preferably by an amendment to the State's prototype free and reduced price policy guidance, (2) notifying School Food Authorities who are not already in compliance with the Statewide policy of the new maximum price which they may not exceed, (3) requiring School Food Authorities, in turn, to notify parents of reduced price meal recipients in writing of the change in price, and (4) encouraging School Food Authorities which are adjusting their reduced price charge to notify all parents through newsletters or other means that the price has changed and that they may apply for free and reduced price meals at any time during the year.

The Department is issuing this rulemaking as a final rule because it is mandated by Public Law 95-627 and is nondiscretionary. Public comment would therefore serve no purpose. In addition, Public Law 95-627 requires that the new earning factors for reduced price lunches take effect on January 1, 1979 and cover reduced price lunches served on or after that date.

Accordingly, Part 210 is amended as follows:

The third sentence of section 210.4(b) is deleted and the second sentence is amended.

**§ 210.4 Payment of funds to States and FNSRO's.**

* * * * *

(b) * * * Beginning with the fiscal year ending June 30, 1974, the national average factor for payment prescribed for free lunches shall be not less than 45 cents and beginning January 1, 1979, the national average factor for payment prescribed for reduced price lunches shall be 20 cents less than the national average factor for free lunches, unless a State establishes for all its schools as prescribed in § 245.11(a) a maximum price for reduced price lunches which is less than 20 cents. If a State establishes such a price, the national average factor for reduced price lunches for that State shall be the lesser of — (a) the national average factor for free lunches minus the price charged for reduced price lunches or (b) the national average factor for free lunches minus 10 cents.

* * * * *

(Catalogue of Federal Domestic Assistance No. 10.555.)

In accordance with Executive Order 12044, a copy of the detailed impact statement for this proposal is on file at the Office of the Director, School Programs Division, USDA-FNS, Washington, D.C. 20250 during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday).

AUTHORITY: (Section 4, Public Law 95-627, 92 Stat. 3619 (42 U.S.C. 1759a)).

Dated: December 29, 1978.

CAROL TUCKER FOREMAN,
*Assistant Secretary for Food and Consumer Services.*

[FR Doc.79-429 Filed 1-4-79; 8:45 am]

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**[3410-30-M]**

[Amendment 12]

## PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK IN SCHOOLS

### State Prototype Free and Reduced Price Policy

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule requires a State wishing to take advantage of the adjusted reduced price earning factor provided for by Section 4 of Public Law 95-627 and prescribed in § 210.4(b) of the National School Lunch Program regulations to establish its maximum reduced price charge in its State prototype free and reduced price policy. It makes the State prototype policy statement an explicit regulatory requirement and removes redundant language.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-8130.

SUPPLEMENTARY INFORMATION: Section 4 of Public Law 95-627 amends Section 11(a) of the National School Lunch Act by changing the differential between the earning factor for free lunches and that for reduced price lunches from 10 to 20 cents. However, the law allows that if a State chooses to establish a statewide maxi-

mum price for reduced price lunches which is less than 20 cents, that State's reduced price earning factor will be adjusted by that maximum price, up to 10 cents less than the free factor.

This rule requires a State which wishes to have its reduced price factor adjusted to formally establish a statewide maximum price in its State prototype free and reduced price policy statement.

This rule also removes the redundant language in Part 245.11(a) which reiterates the maximum allowable price levels for reduced price lunches and breakfasts. It makes the prevailing practice of issuing statewide prototype free and reduced price policy guidance an explicit regulatory requirement.

The Department is issuing this as a final rule because it is necessary to implement a provision mandated by Public Law 95-627 and is a clarification of present regulatory requirements. Accordingly, the first sentence of § 245.11(a) is amended to read as follows:

**§ 245.11 Action by State agencies and FNSRO's.**

(a) Each State agency, or FNSRO where applicable, shall, for schools under its jurisdiction: (1) Issue an annual prototype free and reduced price policy statement and any other instructions necessary to assure that School Food Authorities are fully informed of the provisions of this part. If the State elects to establish for all schools a maximum price for reduced price lunches that is less than 20 cents, the State shall establish such price in its prototype policy. Such State shall then receive the adjusted national average factor provided for in 210.4(b);

(2) prescribe * * *

* * * * *

(Catalog of Federal Domestic Assistance No. 10.555.)

In accordance with Executive Order 12044, a copy of the detailed impact statement for this proposal is on file at the Office of the Director, School Programs Division, USDA-FNS, Washington, D.C. 20250 during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday).

AUTHORITY: (Sec. 4, Public Law 95-627, 92 Stat. 3619 (42 U.S.C. 1759a)).

Dated: December 29, 1978.

CAROL TUCKER FOREMAN,
*Assistant Secretary for Food and Consumer Services.*

[FR Doc. 79-428 Filed 1-4-79; 8:45 am]

[3410-34-M]

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

## PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

### Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of the Plant Protection and Quarantine Programs performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: Friday, January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

H. V. Autry, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, MD 20782 (301-436-8247).

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine Programs, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, March 24, 1978 (43 FR 12301), and August 4, 1978 (43 FR 34429), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding (in appropriate alphabetical sequence) or deleting the information as shown below:

**§ 354.2 Administrative instructions prescribing commuted traveltime.**

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

| Location covered | Served from | Metropolitan area | |
|---|---|---|---|
| | | Within | Outside |
| Delete: | | | |
| * * * * * * * | | | |
| California: | | | |
| Gillespie Field | San Diego | | 1 |
| Imperial Beach NAS | San Diego | | 1 |
| North Island | San Diego | | 1 |
| * * * * * * * | | | |
| Add: | | | |
| * * * * * * * | | | |
| Arkansas: | | | |
| Dardanelle | Conway | | 3 |
| Fort Smith | Conway | | 5 |
| Little Rock | Conway | | 2 |
| Little Rock AFB | Conway | | 2 |
| Osceola | Blytheville | | 2 |
| Pine Bluff | Conway | | 4 |
| Undesignated Ports | Conway | | 4 |
| * * * * * * * | | | |

(64 Stat. 561; (7 U.S.C. 2260))

It is to the benefit of the public that this instruction be made effective at the earliest practicable date. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing amendment are unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of December 1978.

THOMAS G. DARLING,
*Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.*

[FR Doc. 79-478 Filed 1-3-79; 4:03 pm]

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[3410-08-M]

## CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

## PART 412—PUBLIC INFORMATION

### Freedom of Information

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: This rule is a revision of the procedures to be followed by the general public in requesting documents under the Freedom of Information Act (FOIA) from the offices of the Federal Crop Insurance Corporation (FCIC). This rule will make it easier to submit FOIA requests and changes the title of Field Director to Regional Director, and the location of the Corporation's Records Management Officer to conform with agency reorganization.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Under the former procedure, members of the public were directed to send requests for documents under the Freedom of Information Act to Field Directors whose addresses were to be found in other Corporation documents published elsewhere in the FEDERAL REGISTER (36 FR 23325, as amended, 40 FR 23489). Because the FEDERAL REGISTER publications are not always readily available, the revision designates the Office of the Manager, FCIC, as the main contact point for obtaining the addresses of the regional offices. When a request for documents is received in the Office of the Manager, FCIC, Washington, D.C. and the requested documents are in a regional office, the request will be forwarded to the regional office and the requester will be notified of the correct office which will answer that request.

In addition, the title of Field Director has now been changed to Regional Director in the revision. Also changed is the address for the Corporation's Records Management Officer.

Since the revision includes changes in matters relating to agency management and personnel, the provisions of 5 U.S.C. 553 concerning notice of proposed rulemaking, public procedure and 30 day effective date and the 60 day comment period required by Executive Order 12044 do not apply. Therefore, this revised Part 412 Public Information (7 CFR Part 412) is hereby issued without compliance with those procedures.

### FINAL RULE

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended, the Federal Crop Insurance Corporation hereby revises and reissues 7 CFR Part 412, Public Information, to read as follows:

## PART 412—PUBLIC INFORMATION

### Freedom of Information

Sec.
412.1 General statement.
412.2 Public inspection and copying.
412.3 Index.
412.4 Requests for records.
412.5 Appeals.

AUTHORITY: 5 U.S.C. 301, 552; 7 CFR 1.1-1.16.

### FREEDOM OF INFORMATION

**§ 412.1 General statement.**

This part is issued in accordance with the regulations of the Secretary of Agriculture at 7 CFR 1.1-1.16, and Appendix A, implementing the Freedom of Information Act (5 U.S.C. 552).

The Secretary's regulations, as implemented by the regulations in this part, govern availability of records of the Federal Crop Insurance Corporation (FCIC) to the public.

**§ 412.2 Public inspection and copying.**

5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying. Members of the public may request access to such materials maintained by the FCIC at the Office of the Assistant Manager, Administration, FCIC, Washington, D.C. 20250, from 8:15 a.m. to 4:45 p.m., Monday through Friday, or the office of any FCIC Regional Director during the regular operating hours of that office. To obtain the addresses of Regional Offices, either call or write the Manager, FCIC, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6795. When the information desired is not available at a given FCIC location, the FCIC office where the request is received will assist the requester by directing the request to another FCIC office where the information may be obtained. The requester will be informed that his request has been forwarded to the appropriate FCIC office.

Except for such information as is generally available to the public, requests should be made in writing and submitted in accordance with 7 CFR 1.3 and 412.4 of this part.

**§ 412.3 Index.**

5 U.S.C. 552(a)(2) requires that each agency publish, or otherwise make available, a current index of all materials required to be made available for public inspection and copying. The FCIC will maintain a current index providing identifying information for the public as to any material issued, adopted, or promulgated by the Corporation since July 4, 1967, and required by section 552(a)(2). Pursuant to the Freedom of Information Act provisions, the FCIC has determined that in view of the small number of public requests for such index, publication of such an index would be unnecessary and impracticable. Copies of the index will be available upon request in person or by mail to the Records Management Officer, FCIC, Room 4634, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

**§ 412.4 Requests for records.**

The Assistant Manager, Administration, FCIC, located in Washington, D.C., and all Regional Directors are authorized to receive requests for records submitted in accordance with 7 CFR 1.3(a), and to make determinations regarding whether to grant or deny these requests, and other determinations in accordance with 7 CFR 1.4(c).

**§ 412.5 Appeals.**

Any person whose request under § 412.4 above is denied shall have the right to appeal such denial. This appeal shall be submitted in accordance with 7 CFR 1.3(c), and addressed to the Manager, FCIC, U.S. Department of Agriculture, Washington, D.C. 20250.

Effective date: This revision shall be effective December 20, 1978.

Approved by the Board of Directors of the Federal Crop Insurance Corporation on December 20, 1978.

Dated: December 20, 1978.

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

Approved by:

JAMES D. DEAL,
*Manager, Federal Crop Insurance Corporation.*

Dated: December 27, 1978.

[FR Doc. 79-399 Filed 1-4-79; 8:45 am]

[3410-02-M]

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

[Lemon Regulation 180, Lemon Regulation 179, Amendment 1]

## PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period January 7-13, 1979, and increases the quantity of such lemons that may be so shipped during the period Dec. 31-Jan. 6. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective Janury 7, 1979, and the amendment is effective for the period December 31-January 6.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on December 29, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is increasing.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. § 910.480 Lemon Regulation 180.

*Order.* (a) The quantity of lemons grown in California and Arizona which may be handled during the period January 7, 1979, through January 13, 1979, is established at 200,000 cartons.

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

2. Paragraph (a) of § 910.479 Lemon Regulation 179 (44 FR 30 is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period December 31, 1978, through January 6, 1979, is established at 200,000 cartons."

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

Dated: January 4, 1979.

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

[FR Doc. 79-679 Filed 1-4-79; 11:11 am]

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[3410-15-M]

## CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION

## PART 1701—PUBLIC INFORMATION

### Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: This includes revisions since August 11, 1978, to the listing and summary descriptions of REA bulletins and supplements thereto that provide the program policies and requirements of the Rural Electrification Administration. This revision reflects both new and revised REA bulletins issued after publication in the FEDERAL REGISTER under proposed rulemaking procedures to secure public comment and participation.

EFFECTIVE DATES: REA bulletins become effective on the date of final issuance, unless otherwise set forth therein (see Appendix A below for each REA bulletin and its issuance date).

FOR FURTHER INFORMATION CONTACT:

Mr. Blaine D. Stockton, Jr., Director, Management Services Division, Rural Electrification Administration, Room 4024-S, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4512.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.). Public comments were received on one revised bulletin and one bulletin supplement during this period: REA Bulletin 385-4, Special Equipment Contracts and Specifications, and a supplement to REA Bulletin 20-14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act. Public comments were not received on any other revisions of REA bulletins issued during this period and included in this update of Appendix A.

Three comments were received on the proposed supplement to REA Bulletin 20-14, one favorable and two unfavorable. The two respondents submitting the unfavorable comments had the same concern, in that they both felt the proposed revision of the method of calculating the breakdown of loan funds between REA and supplemental lenders would require more funds from supplemental lenders and in turn cost the borrowers more interest.

Comments were received from four sources on the proposed revisions of REA Bulletin 385-4, REA Form 397, Special Equipment Contract, and REA Form 525, Central Office Equipment Contract. The comments were as follows:

1. *Contract price will increase to cover potential loss due to liquidated damages or a decision will be made not to submit a bid.* With proper planning and control on the part of the bidder and with an extension of time being provided for delays beyond the control of the bidder there should be few instances where the right to liquidated damages would be exercised. The savings to the purchasers resulting from installation commitments being met should more than offset any increase in price due to a liquidated

damages clause. It is REA's opinion that a liquidated damages clause will require improved planning and control so as to meet installation commitments and will achieve overall savings for the purchasers.

2. *Administration cost will increase to properly account for changes and time extensions.* It is expected that administration costs will increase as a result of accounting for changes and time extensions. REA feels that these costs are necessary for proper planning and control which will result in overall savings to the bidder and purchaser.

3. *Contract is one sided against the bidder.* The liquidated damages clause applies only against the bidder and not against the purchaser for failure to complete the installation on schedule. However, any delay caused by the purchaser would be cause for an extension of time on the part of the bidder. REA believes that if the purchaser is unable to receive the equipment on schedule, then the bidder's financial loss would be limited to cost of money and storage charges related to the equipment.

4. *The test of reasonableness which must be satisfied is questionable.* It is intended that the amount of liquidated damages be specified on an individual basis to reflect the anticipated financial harm. The following language will be included in REA Bulletins 384-3 and 385-4 which will announce the issuance of the addenda to REA Forms 525 and 397, respectively: "The rate of liquidated damages stipulated must be reasonable in relation to anticipated damages, considered on a case-by-case basis, since liquidated damages fixed without any reasonable reference to probable damages may be held to be not compensation for anticipated damages caused by delay, but a penalty and therefore unenforceable."

REA's position is that there are difficulties in ascertaining the actual loss due to factors covering revenues and expenses as follows: Connecting company commitments, directories, toll usage, vertical services, good will, etc. Experience has shown that it is very difficult to ascertain the amount of these damages.

5. *Unreasonably large liquidated damages would be made void as a penalty.* As mentioned previously, REA's position is that the amount of liquidated damages is to be specified on an individual basis to reflect the anticipated financial harm so as not to be construed as a penalty.

6. *The time allowed for submitting a written request for an extension of time should be 20 days after knowledge of an event that would result in a delay.* With respect to the clause which requires the bidder to request an extension of time in writing within 20 days after the happening of an event which would result in a delay, it is the REA interpretation that the 20 days begins when the bidder "knew or should have known of the happening" of the event relied on for the extension of time request.

7. *There should be a cap on the total amount of liquidated damages.* There would be no cap on the damages suffered by a purchaser for continued failure to complete the installation and correspondingly there should be no cap on the total amount of liquidated damages. The bidder has control over his ability to perform so as to keep liquidated damages to a minimum. Purchasers would have an obligation to minimize their damages. Where a long delay is caused beyond the bidder's control then there is a provision for requesting an extension of time for performance. This interpretation is covered in the bulletin.

8. *The contracts permit the cumulation of remedies, thereby implying that it is not inconvenient or unfeasible to obtain remedies other than liquidated damages. This provision contained in the addenda to the contract forms likely will be held unenforceable in a court of law.* REA is reconsidering this provision and will announce a decision in the near future.

The following listings of revised REA bulletins and summary descriptions of bulletins add to or replace existing listings in Appendix A to Part 1701 (40 FR 16074).

APPENDIX A—REA BULLETINS

*REA Bulletin Number, Issuance Date, and Description of Content*

JOINT RURAL ELECTRIFICATION AND TELEPHONE PROGRAM BULLETINS

20-9:320—12; October 1976 (Supplement)—A supplement dated July 3, 1978, providing the procedure for requesting approval for extensions and prepayments by FFB (REA) borrowers under the REA Guaranteed Loan Program.

20-19:320-19; July 1978 (Replacing June 1974)—REA policy and procedure to assure nondiscrimination among beneficiaries of REA programs.

40-2:340-5; April 1976 (Supplement)—A supplement dated September 7, 1978, reducing REA requirements concerning borrowers' contractors bonds by raising from $25,000 to $50,000 the minimum amount of construction contracts which require a bond.

44-5:345-2; June 1976 (Supplement cancellation)—Supplement dated August 3, 1976, canceled.

RURAL ELECTRIFICATION PROGRAM BULLETINS

20-2; June 1977 (Supplement)—A supplement dated July 5, 1978, consisting of revised pages which announce changes in the types of applications requiring a power supply survey and reports to Congress.

20-14; February 1971 (Supplement)—A supplement dated August 1, 1978, simplifying the calculation of the amounts to be provided by the supplemental lender, including any required investments in the supplemental lender.

43-5; July 1978 (Supplement)—Supplement 1 dated October 1978, updating the basic list of materials acceptable for use on systems of REA electric borrowers.

44-1; October 1978—REA specifications and standards for material and equipment used by electric borrowers.

61-6; May 1978 (Replacing June 1970)—REA specifications for the design of crossings of electric distribution lines over communications lines.

62-1; September 1972 (Supplement)—A supplement dated July 24, 1978, revising clearance requirements, and the conditions under which they apply, for REA-financed transmission lines.

85-1; August 1978 (Replacing February 1978)—REA procedures for closing out projects involving contract construction of electric borrowers' generation facilities.

RURAL TELEPHONE PROGRAM BULLETINS

344-2; January 1977 (Supplement)—Supplement 5 dated September 1978, updating the basic list of materials acceptable for use on systems of REA telephone borrowers.

345-13; June 1978 (Supplement)—A supplement dated September 20, 1978, to correct the omission of symbols in a formula for near-end crosstalk in the June 1978 revision of the bulletin.

345-14; July 1978 (Replacing July 1971)—REA specification for telephone cables for direct burial by telephone borrowers.

345-22; October 1978 (Replacing August 1971)—REA specification for 66 MH voice frequency loading coils on telephone borrowers' systems.

345-74; July 1978 (Replacing February 1977)—REA specification for Type A telephone sets.

345-80; July 1978 (New)—REA specification for flat oval telephone cords.

345-81; August 1978 (New)—REA specification for modular telephone set hardware.

360-1; October 1978 (Replacing February 1972)—REA requirements for the use by telephone borrowers of REA Form 567, Checklist for Review of an Area Coverage Design.

384-3; August 1978 (Replacing November 1977)—REA procedure for the use of central office equipment contracts and specifications by telephone borrowers.

385-4; August 1978 (Replacing June 1978)—Special equipment contracts and specifications approved by REA for the use of telephone borrowers.

Dated: December 29, 1978.

ROBERT W. FERAGEN,
*Administrator.*

[FR Doc. 79-491 Filed 1-4-79; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

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

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

### PART 73—SCABIES IN CATTLE

#### Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Custer County in Idaho because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed by Veterinary Services Laboratories in Ames, Iowa. Therefore, in order to prevent the dissemination of cattle scabies it is necssary to quarantine the infested area.

EFFECTIVE DATE: December 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: This amendment quarantines a portion of Custer County in Idaho because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a, a new paragraph (e) relating to the State of Idaho is added to read:

**§ 73.1a Notice of quarantine.**

* * * * *

(e) Notice is hereby given that cattle in a certain portion of the State of Idaho are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following area in such State is hereby quarantined because of said disease:

That portion of Custer County beginning at a point at the intersection of State Highway 93A and Trail Creek Road; thence, west on Trail Creek Road to the intersection of Old Chilly Road; thence, south on Old Chilly Road to Big Lost River; thence, southwestward following Big Lost River to intersection of 5th Guide Meridian East; thence, north on 5th Meridian to intersection of Highway 93A; thence, southeastward on 93A to intersection of Trail Creek Road, the point of beginning.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

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

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

Done at Washington, D.C., this 27th day of December 1978.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044. It has been determined by Dr. J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the possibility of the spread of cattle scabies into other States or Territories of the United States is severe enough to warrant the publication of this quarantine without waiting for public comment. An impact analysis statement is being prepared and will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8695. In addition, this amendment to the regulations covering cattle scabies will be scheduled for review under provisions of E.O. 12044.

M. T. GOFF,
*Acting Deputy Administrator, Veterinary Services.*

[FR Doc. 79-285 Filed 1-4-79; 8:45 am]

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[3410-34-M]

### PART 79—SCRAPIE IN SHEEP

#### Release of Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release from quarantine that portion of La Salle County in Illinois which was quarantined because of scrapie in sheep. The source flock has been slaughtered, removing the source of scrapie infection in La Salle County. No areas in the State of Illinois remain under quarantine.

EFFECTIVE DATE: December 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. L. Klingsporn, Sheep, Goats, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Room 739, Federal Building, Hyattsville, MD 20782, (301) 436-8231.

SUPPLEMENTARY INFORMATION: This amendment releases from quarantine that portion of La Salle County in Illinois which was quarantined because of scrapie in sheep. Therefore, the restrictions pertaining to the interstate movement of sheep from quarantined areas contained in 9 CFR Part 79, as amended, will not apply to the released area, but the restrictions pertaining to the interstate movement of sheep from nonquarantined areas contained in said Part 79 will apply to the released area.

Accordingly, § 79.2 of Part 79, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of sheep because of scrapie, is hereby amended in the following respect:

In § 79.2, paragraph (1), relating to the Sherwood R. Jackson flock located in Miller Township, which is in La Salle County, Illinois, is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of scrapie in sheep, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 27th day of December 1978.

This final rulemaking is being published under emergency procedures as authorized by E.O. 12044. Dr. J. K. Atwell, Assistant Deputy Administra-

tor, Animal Health Programs, APHIS, VS, USDA, has determined that maintaining a quarantine on this county for an additional 60-day period would create an economic situation severe enough to warrant the publication of this amendment without waiting for public comment. An impact analysis statement is being prepared and will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695. In addition, this amendment to the regulations covering Scrapie in Sheep will be scheduled for review under provisions of E.O. 12044.

M. T. GOFF,
*Acting Deputy Administrator,*
*Veterinary Services.*

[FR Doc. 79-284 Filed 1-4-79; 8:45 am]

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[8025-01-M]

## Title 13—Business Credit and Assistance

## CHAPTER I—SMALL BUSINESS ADMINISTRATION

## PART 130—SMALL BUSINESS ENERGY LOANS

### Small Business Energy Loan Program

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This part is established by the SBA to provide the rules and regulations for the Small Business Energy Loan Program. This action is necessary since Public Law 95-315 signed on July 4, 1978 directed the SBA to implement an energy loan assistance program designed to provide loans and loan guarantees as a means for small businesses to establish or expand energy related businesses. The intent of this rule is to implement the Small Business Energy Loan Program after giving due consideration to public comments and reaction. It provides for eligibility, credit requirements, and loan terms to be utilized in the program.

EFFECTIVE DATE: January 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Evelyn Cherry, Chief, Special Projects Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653-6696.

SUPPLEMENTARY INFORMATION.

INTRODUCTION: On September 5, 1978, proposed rules and regulations were published in the FEDERAL REGISTER (43 FR 39394) for the implementation of Pub. L. 95-315, 92 Stat. 377, the "Small Business Energy Loan Act," which established the small business energy loan program as section 7(1) under the Small Business Act ("Act") in the Small Business Administration. The legislation required SBA to consult with the Department of Energy (DOE), other appropriate Federal departments and agencies, and to solicit and consider comments from interested small businesses in developing final regulations, which has been done.

SBA received comments in the following areas.

Program Objectives—130.2.
Eligible Energy Measures—130.3.
Use of Proceeds—130.6.
Loan Criteria—130.7.
Other Financing—130.8.
Loan Maturity and Repayment Terms—130.11.

All comments were generally supportive of the establishment of the loan program. Several comments were beyond the scope of the legislation, and could not be incorporated into this regulation.

PROGRAM OBJECTIVES—130.2:

The Department of Energy expressed concern that the scope of the objectives appeared to be too narrow. Section 130.3(c), however, provides the Administrator discretion to expand the range of eligibility based on an applicant's submitting documentation of projected or actual energy savings, thus broadening the interpretation of the objectives.

There was a question as to whether a "startup" should be a business that has been *in operation* for less than two years or one that has been *fully operational* for less than two years. The *in operation* approach was viewed as being more restrictive than the *fully operational* one. The program is not limited solely to startups but is available to established firms. Further, the duration of a startup was not intended to have any restrictive implications or effects on prospective borrowers. The SBA believes, therefore, that defining "startup" as "a small firm, which together with any predecessor or related concern, has been *in existence* for less than two years" will not be restrictive.

ELIGIBLE ENERGY MEASURES—130.3:

Several commenters suggested specific types of products or processes which should be specifically enumerated in the regulations as being eligible. Upon consideration of these comments and after consultation with DOE, SBA further defined Parts 130.3(a) through 130.3(h), through the use of examples. Additionally, the language of Part 130.3(c) was sufficiently broadened to permit SBA to consider any worthwhile energy-saving process or product so long as these savings can be satisfactorily documented. Further, SBA will also consult with DOE on an as-needed basis in order to determine the eligibility of a particular product or service.

USE OF PROCEEDS—130.6

SBA received a number of comments relating to the use of loan proceeds for working capital and the amount which would be appropriate for such use. While Section 7(1) does not mention working capital as an eligible use of proceeds, SBA has determined that in some situations it may be necessary and appropriate to allow the use of a limited portion, not to exceed 25% of loan proceeds for working capital in order to further the purposes of Section 7(1). Moreover, research and development may require working capital. In such cases the research and development portion of a loan may be as high as 30%, but the combination of working capital for research and development and for other purposes may not exceed 30%. Section 130.6 has been modified to reflect this interpretation.

Acknowledging that there may be the assumption of "greater risk" and consistent with the requirements for reasonable assurance of loan repayment, evaluation in each loan request will include such credit factors as adequacy of net worth or available equity funds, past earnings or reliance on probability of attaining projected earnings, along with favorable product acceptance or evaluation, technical competence and experience, demonstrable production costs and market acceptance.

LOAN CRITERIA—130.7

A commenter suggested a priority scheme to allocate funds on the basis of "time criticalness"; that is, the faster the payback, the higher the priority. SBA believes that all eligible applicants should be given equal priority and no particular product or service should be given preference. Loan applications will be considered in the order they are received in SBA field offices.

OTHER FINANCING—130.8

A suggestion was received that energy loans be made only to those who are unable to qualify for a regular business loan in order to assure that the liberal loan guidelines in 130.7 are utilized by the intended beneficiaries of such guidelines. The Act does not require SBA to deviate from its "reasonable assurance of repayment ability" test, but acknowledges that greater risk may be associated with such loans and requires that technical fac-

tors be incorporated into the credit decision. The legislative history contemplated credit allocations of direct and guaranteed funds to the particular economic sectors enumerated in Part 130.3(a)-(h). Every applicant will be given equal treatment but there must be reasonable assurance of repayment ability in every case. SBA loans are made only when other non-Federal financing is not available on reasonable terms. Further, credit risk is not evaluated so much between different loan programs, as between the types of instruments (direct and guarantee) within these programs. Given this framework for analysis, SBA foresees little likelihood that the intended beneficiaries of the 7(1) program will be adversely affected by allowing all energy type loans to be classified as 7(1).

In addition, Section 10(b) of the Act now requires reports of projected and actual energy savings and jobs created. This reporting requirement will best be met by combining all energy loans under 7(1). Applicants will be required to document projected energy savings, and loan recipients will be required to document actual energy savings.

LOAN MATURITY AND REPAYMENT TERMS—130.11

Suggestions were recefived that the regulations specifically provide for grace periods for payment of principal. SBA believes that this is a useful suggestion and Section 130.11 has therefore been modified to incorporate this recommendation.

Pursuant to the authority of Section 7(1) of the Small Business Act, 15 U.S.C. 636, a new Part 130 of Chapter I, Title 13 of the Code of Federal Regulations is hereby adopted as set forth below:

## PART 130—SMALL BUSINESS ENERGY LOANS

Sec.



AUTHORITY: 5 U.S.C. 636.

### § 130.1 Statutory provisions.

The statutory provisions will be found at 5 U.S.C. 636.

### § 130.2 Program objectives.

The objectives of this program are to provide a means for small business concerns to enter (startup), continue, or expand in the fields of manufacturing, selling, installing, servicing, and developing specific energy measures, through loans and loan guarantees, seminars, and training grants. Startup, for this purpose, means a small firm which, together with any predecessor or related concern, has been in existence for less than two years.

### § 130.3 Eligible energy measures.

Only the energy measures cited in the Act are eligible for assistance under this program. These measures (and definitions) are as follows:

(a) Solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer; or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types.

Active systems generally use mechanical power (e.g., pumps or fans) to store and distribute energy. Conversely, passive systems use natural energy flows (conduction, convection, and radiation) and buildings themselves to trap, store, and transport thermal energy within the structure. Frequently, designs combine aspects of both types of systems, resulting in a hybrid system.

(b) Photovoltaic cells and related equipment. Such devices produce electricity when exposed to radiant energy, especially light. Several devices have been developed to utilize photovoltaic solar cells. One example is photovoltaic powered solar irrigation pumps.

(c) A product or service the primary purpose of which is conservation of energy through devices or techniques which can be demonstrated to increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the Energy Conservation Measures List of the Secretary of Energy (see Table 1) or which the Administrator determines to be consistent with the intent of Subsection 7(1) of the Act. For purposes of this paragraph (except for those measures on the Energy Conservation Measures List) the applicant must furnish written evidence satisfactory to SBA demonstrating projected or actual energy savings.

(d) Equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy. This refers to energy developed by the burning of combustible biological materials and/or the conversion to solid, liquid or gaseous fuels. The burning of wood and other forms of biomass is the oldest form of biomass use.

Examples of converted fuels are: (1) *methanol*—wood alcohol derived from wood or municipal wastes and (2) *ethanol*—grain alcohol produced by fermentation from agricultural products.

(e) Equipment the primary purpose of which is industrial cogeneration of energy, district heating, or production of energy from industrial waste. Industrial cogeneration is defined as the production of power (electrical or mechanical) and useful thermal energy from the same primary power source. An example would be using thermal energy to produce power and using the rejected heat in a thermal process. District heating is defined as the use of central sources of heat to supply heat to a number of buildings (residential or commercial) in a community. An example could be using a steam or hot water boiler, or waste heat from an industrial process to provide a source of heat for several buildings. Production of energy from industrial waste is defined as the burning of combustible industrial scrap such as cardboard, waste lubricating oils or by-products from industrial processes to produce energy either directly or by conversion to another fuel.

(f) Hydroelectric power equipment is defined as generating electricity by conversion of the energy of flowing water. Water driven turbines producing electricity are examples.

(g) Wind energy conversion equipment is defined as the production of power (electrical or mechanical) by conversion of the energy of wind. Electricity generated by windmills and devices for storing energy generated by the wind are examples of this type of equipment.

(h) Engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in subparagraphs (a) through (g) of this Section. This is defined as any of the professional services associated with the utilization of alternative energy sources or energy conservation devices and techniques. An example would be a firm which specializes in providing expertise on ways to improve the energy efficiency of existing plant facilities.

### § 130.4 Eligible applicants.

All applicants for these loans must be small business concerns as defined in § 121.3-10.

### § 130.5 Eligible participants.

Participating lenders must meet the definition of an eligible loan participant in § 120.4.

**§ 130.6 Use of proceeds.**

Loan funds can be used for vacant land immediately necessary for the construction of a plant, and for buildings, machinery, equipment, furniture, fixtures, facilities, supplies, or materials for an eligible loan measure. Where SBA considers it necessary and appropriate to further the purposes of Section 7(l) it may allow the use of a limited portion of loan proceeds for cash working capital, not to exceed 25%. It is the general policy that loan funds will not be used for research and development, which should be completed before the loan application. Where, however, development of a product or service may be completed under a business plan that provides reasonable assurance of repayment, or where the further development of a product or service already on the market is involved, a portion of the loan proceeds not to exceed 30% may be used for such purposes; *Provided, however,* That in no event may the combined working capital and research and development portion of a loan exceed 30%.

**§ 130.7 Loan criteria.**

The Act provides that all loans made under this authority shall be of such sound value as reasonably to assure repayment, recognizing that greater risk may be associated with loans made to business concerns in this field, provided, that factors in determining sound value shall include, but not be limited to, quality of the product or service; technical qualifications of the applicant or his employees; sales projections, and the financial status of the business concern, and provided further, that such status need not be as sound as that required for loans under Section 7(a) of the Small Business Act.

**§ 130.8 Other financing.**

No loan shall be made under this program unless the financial assistance is not otherwise available on reasonable terms from non-Federal sources. Also, an immediate participation will not be approved unless a guaranty (deferred) participation is not available, and a direct loan will not be approved unless an immediate participation is not available. The requirements of § 120.2(a) (1) and (2) except § 120.2(a)(2)(iv), relating to documentation of efforts to find other financing, shall apply to loans under this program. Any "energy" loan will be made under Section 7(l) regardless of whether it might have qualified under Section 7(a) of the Small Business Act.

**§ 130.9 Loan amount.**

The maximum combined loan exposure of SBA to any one small business concern, together with all its affiliates, under this program, the regular business program, Economic Opportunity Program, Handicapped Assistance Program, but excluding any disaster program authorized by Section 7(b) or 7(g) of the Small Business Act, is $350,000 for SBA's direct and immediate participation exposure, and $500,000 for SBA's guaranty (deferred) exposure.

SBA's share of an immediate participation shall not exceed 75% and SBA's share of a guaranty (deferred) participation shall not exceed 90% of the outstanding balance of an approved loan. The exception to SBA's share of an immediate participation in § 120.2(b)(2), also applies to this program.

**§ 130.10 Interest rate.**

The interest charged or permitted by SBA for these loans is the same as for regular loans, as described in § 120.3(b)(2).

**§ 130.11 Loan maturity and repayment terms.**

The maturity of a small business energy loan will be established on the basis of the borrower's ability to repay, up to the maximum maturity of fifteen (15) years. Loans under this program will normally require level, monthly payments of principal and interest. When deemed necessary, grace periods for payment of principal may be provided, but in no event may the loan maturity extend beyond 15 years. Interest payments must be made as soon after the loan is disbursed as possible and will be required during any grace period.

**§ 130.12 Applicability of other SBA regulations.**

All applicable provisions of Parts 120 and 122 of this chapter shall apply to energy loans except where other provision is made in this part.

**§ 130.13 SBA seminars.**

Under new Section 7(d)(2) of the Act, SBA is authorized to hold seminars in order to inform potential applicants for small business energy loans of the policies and procedures relating to such loans, as well as other related government energy programs. SBA, together with representatives of the Department of Energy, will develop the agendas for such seminars to meet the needs of the audiences in the various parts of the country, and will issue appropriate public notice of such seminars.

**§ 130.14 Training grants.**

SBA is also authorized to make grants to qualified organizations to conduct seminars for small business in order to train them in practical and easily implemented methods of design, manufacture, installation, and servicing of equipment identified in § 130.3. Such grants may also be used for services to recipients of grants provided for in Section 7(d)(1) of the Small Business Act. Grant recipients are limited to those organizations that have not received loans under the Small Business Energy Loan Program. (This portion of the legislation will be implemented at such time as funds are appropriated for this purpose.)

**§ 130.15 Measurement of energy savings.**

Under Sec. 10(b) of the Act, SBA must report projected and actual energy savings, and numbers of jobs created, by recipients of 7(l) loans. Applicants and borrowers will therefore be required to furnish such information on forms specified by SBA.

(Catalogue of Federal Domestic Assistance Program No. 59.030)

A. VERNON WEAVER,
*Administrator.*

TABLE 1

ELIGIBLE ENERGY MEASURES

Subject to the requirements and limitations set forth in Title 10, Chapter 11, § 450.32, an energy conservation measure shall be—

(a) Ceiling insulation in a residential or commercial building which is a material which is installed on the surface of the ceiling facing the building interior or between the heated top level living area and the unheated attic space and which resists heat flow through the ceiling;

(b) Wall insulation in a residential or commercial building or industrial plant, which is a material which is installed on the surface facing the building interior or in the cavity, of an exterior wall and which functions to resist heat flow through the wall;

(c) Floor insulation in a residential or commercial building, which is a material which resists heat flow through the floor between the first level heated space and the unheated space beneath it, including a basement or crawl space;

(d) Insulation for hot bare pipes in a residential or commercial building or industrial plant, which is a material which resists heat flow from the pipes to the surrounding space;

(e)(1) Caulks and sealants in a residential or commercial building or industrial plant, which are nonrigid materials placed in joints of buildings to prevent the passage of heat, air and moisture;

(2) Weatherstripping in a residential or commercial building or industrial plant, which consists of narrow strips of flexible material placed over or in movable joints of windows and doors

to reduce the passage of air and moisture;

(f) Roof insulation in a commercial building or industrial plant which is insulation placed on the surface of the roof facing the building interior or between a roof deck and its water repellent roof surface;

(g) Clock thermostat in a residential building, which is a temperature control device for interior spaces incorporating more than one temperature control point and a clock for switching from one control point to another;

(h) Exterior insulation for a hot water heater in a residential or commercial building or industrial plant, which is a material placed around the tank which resists the heat flow from the hot water heater to its surrounding space;

(i) Insulation for forced air ducts in a residential or commercial building or industrial plant, which is a material which resists heat flow from the duct to its surrounding space;

(j) Storm window in a residential or commercial building which is an extra window, normally installed to the exterior, but which may be installed to the interior, of the primary or ordinary window, to increase resistance to heat flow and to decrease air infiltration;

(k) Efficient lighting fixture or lamp in a residential or commercial building or industrial plant, which is one which—

(1) Replaces an incandescent fixture or lamp with a type of lighting system including fluorescent, mercury vapor, metal halide, and high pressure sodium or ellipsoidal reflector lamps; or

(2) Replaces a mercury vapor fixture or lamp with a high pressure sodium lighting system.

(l) Mixing valve for a hot water supply line in a residential or commercial building or industrial plant, which is a type of valve mounted in the hot water supply line, close to the water heater, which mixes cold water with hot, reducing the temperature of the water in the hot water distribution system;

(m) Flow restrictor for hot water lines in a residential or commercial building or industrial plant, which is a device that limits the rate of flow of hot water from shower heads and faucets;

(n) Burner for oil fired heating equipment in a residential building, which is a device which atomizes the fuel oil, mixes it with air and ignites the fuel-air mixture, and is an integral part of an oil fired furnace or boiler, including the combustion chamber;

(o) Individual meters to replace a master meter for gas, electricity and hot water in a commercial building, which are meters that measure the consumption of gas, electricity or centrally distributed hot water for individual users, instead of the total consumption which is measured by a master meter;

(p)(1) New oil burner in a commercial building or industrial plant, which is a device that meters, atomizes, ignites and mixes the oil with air for the combustion process of a boiler; or

(2) New boiler controls in a commercial building or industrial plant, which are devices that sense the need for reducing or increasing the firing rate and change the combustion air and oil flow rate accordingly;

(q) Controls for lighting in a residential or commercial building or industrial plant which are manual or automatic cut off switches for lighting systems that allow cut off of all lighting or a portion of the lighting systems when lighting is not required;

(r) Automatic HVAC control system in a commercial building or industrial plant, which is a device which adjusts the supply of heating or cooling to meet space conditioning requirements;

(s) High efficiency electric motor or motor controls in a commercial building or industrial plant, which replace an existing motor or motor controls, resulting in not less than a specified increase in efficiency at a specified level of use, as determined by FEA; and

(t) Whole house ventilation fan in a residential building, which is a fan which removes air from the inside of a residential building to the outside.

[FR Doc. 79-558 Filed 1-4-79; 8:45 am]

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[4810-22-M]

## Title 19—Customs Duties

## CHAPTER I—UNITED STATES CUSTOMS SERVICE, TREASURY DEPARTMENT

[T.D. 79-07]

## PART 159—LIQUIDATION OF DUTIES

### Certain Fish From Canada—Final Countervailing Duty Determination

AGENCY: Customs Service, Treasury.

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a determination that the Government of Canada has given benefits which constitute bounties or grants under the countervailing duty law on the manufacture, production, or exportation of certain fish. Both dutiable and duty-free fish are included in this determination. However, countervailing duties on the dutiable fish originating in the Atlantic regions of Canada will be waived, based upon actions of the Government of Canada to reduce significantly the bounty or grant and the other criteria for waiver in the law. The case involving duty-free fish originating in the Atlantic regions of Canada is being referred to the International Trade Commission for an injury determination. Fish originating in the rest of Canada have been determined to receive benefits that are *de minimis*.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles F. Goldsmith, Economist, Office of Tariff Affairs, Department of the Treasury, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-2323.

SUPPLEMENTARY INFORMATION: On July 10, 1978, a notice of "Initiation of Countervailing Duty Investigation and Preliminary Determination" was published in the FEDERAL REGISTER (43 FR 29637). The notice stated that it had been preliminarily determined that benefits had been received by Canadian fishermen and processors which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

Fish imports covered by this investigation are classifiable under items 110.3552, 110.5070, 110.1593, 110.1597, 110.4730, 110.4755, 110.4760, 110.4765, 114.4520, and 114.4537, Tariff Schedules of the United States Annotated (TSUSA).

The fish imports from Canada which are classifiable under items 110.1593, 110.1597, 110.4730, 110.4755, 110.4760, 110.4765, 114.4520, and 114.4537 TSUSA are free of duty.

The notice stated that the programs under which these benefits were conferred included: (1) direct payments to fishermen and fish processors by the Federal Government under the Groundfish Temporary Assistance Program (GTAP); (2) assistance to fishermen for financing of vessel construction; (3) grants provided to the Newfoundland fishing industry by the Department of Regional Economic Expansion (DREE); and (4) other assistance in the form of loans at preferential rates.

The notice offered interested parties an opportunity to submit any relevant data, views, or arguments in writing with respect to the preliminary determination on or before July 25, 1978.

After consideration of all information received, it is determined that exports of certain fish from Canada covered by this investigation are subject

to bounties or grants within the meaning of section 303 of the Act. The bounties or grants are:

(1) Cash payments to fishermen for the financing of vessel construction of up to 35 percent of the approved capital cost of vessels between 35 and 75 feet in length. Assistance is available from a different source for vessels over 75 feet in length for up to 20 percent of the approved capital cost of the vessel. This type of aid is treated as a bounty or grant under the law in view of the fact that a preponderance of Canadian fish is exported.

Ninety percent of the funds of the former program benefit fishermen of all species of fish who are located in the Atlantic regions of Canada (i.e., Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, and Quebec); the remaining ten percent benefit fishermen of all species who are located in the rest of Canada. Benefits from the latter program are received by all Canadian fishermen of all species.

(2) Grants provided by DREE to the Province of Newfoundland whereby DREE and the Provincial Authorities share the capital cost for: (a) the augmentation of water supply systems to several coastal communities in Newfoundland, and (b) the construction of wharfs, service center buildings, storage areas, supply and installation of travelift and synchrolift equipment at Marine Service Centers. These benefits are received by Atlantic fishermen of all species.

In addition, DREE has provided funds for the construction and improvement of groundfish processing plants in the Atlantic regions of Canada. Only those grants which pertained exclusively to the groundfish under investigation were considered as countervailable. These funds benefited only the Atlantic fishermen of groundfish.

Since the benefits of these forms of capital improvements are used almost exclusively by fishermen and fish processors, and as previously noted, a preponderance of the fish produced in Canada is exported, the regional aids described above are considered bounties or grants.

(3) Assistance in the form of low-cost loans by the Nova Scotia Fishermen's Loan Board and the New Brunswick Fishermen's Loan Board. Benefits from these programs were received by Atlantic fishermen of all species.

It has been determined that the Groundfish Temporary Assistance Program (GTAP) no longer constitutes a bounty or grant. Payments under this program, which at its outset provided fishermen and processors of groundfish with cash payments, ceased as of October 1, 1978.

It has been determined that certain other programs of the Canadian Government do not constitute a bounty or grant. These are:

(1) Loans by the Prince Edward Island Fishermen's Loan Board. These loans were made at commercial rates of interest.

(2) Loans and loan guarantees by the New Brunswick Development Corporation. These loans were made at commercial rates of interest and a charge is levied for the guarantee.

(3) Loans by the Nova Scotia Industrial Estates Limited. These loans were made at commercial rates.

(4) Loan guarantees under the Fisheries Improvement Loan Act. These loans were made at commercial rates and a charge is levied for the guarantee.

In accordance with section 303 of the Act and until further notice, the net amount of bounties or grants has been determined to be, in terms of the f.o.b. price for export to the United States: 1.17 percent for groundfish originating in the Atlantic regions of Canada (i.e., Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, and Quebec); 0.38 percent for groundfish originating in the rest of Canada; 1.08 percent for shellfish originating in the Atlantic regions of Canada; and 0.38 percent for shellfish originating in the rest of Canada.

It has been determined that the shellfish and groundfish originating in the rest of Canada receive benefits that are legally *de minimis;* therefore, no countervailing duties will be assessed on imports of these products.

Accordingly, notice is hereby given that the dutiable fish originating in the Atlantic regions of Canada which are the subject of this investigation, imported directly or indirectly from the Atlantic regions of Canada, if entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the FEDERAL REGISTER, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

Effective on or after the date of publication of this notice in the FEDERAL REGISTER and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of the dutiable fish from Canada, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount estimated in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of certain dutiable fish from Canada are subject to a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation.

Notwithstanding the above, a "Notice of Waiver of Countervailing Duties" is being published concurrently with this order which covers the dutiable fish originating in the Atlantic regions of Canada subject to this investigation in accordance with section 303(d) of the Act. At such time as the waiver ceases to be effective, in whole or in part, a notice will be published setting forth the deposit of estimated countervailing duties which will be required at the time of entry, or withdrawal from warehouse, for consumption of each product then subject to the payment of countervailing duties.

The duty-free fish subject to this investigation are included in the above finding of payments of bounties or grants as defined in the Act. In accordance with section 303(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article or merchandise which is free of duty in the absence of a determination by the International Trade Commission that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States.

Accordingly, the International Trade Commission is being advised of this determination and the liquidation of entries, or withdrawals from warehouse, for consumption of the duty-free fish in question will be suspended pending the determination of the Commission.

Should the determination of the Commission be affirmative, the Treasury would also consider it appropriate to waive countervailing duties under section 303(d) of the Act, should it then or subsequently have the authority to do so and the preconditions then extant for such a waiver are met.

The table in section 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry from Canada and under the commodity heading "Fish" the number of this Treasury Decision in the column so headed, and the words "Bounty Declared-Rate" in the column headed "Action".

(R.S. 251, as amended, secs. 303, 624; 46 Stat. 687, 759, as amended, 88 Stat. 2051, 2052 (19 U.S.C. 66, 1303), as amended, 1624).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
*General Counsel of the Treasury.*

DECEMBER 29, 1978.

[FR Doc. 79-525 Filed 1-4-79; 8:45 am]

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[4110-03-M]

## Title 21—Food and Drugs

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

### SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 78N-0394]

## PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

## PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

### Vidarabine Monohydrate for Infusion

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations to provide for the certification of vidarabine monohydrate for infusion. The manufacturer has supplied sufficient data and information to establish the safety and efficacy of vidarabine monohydrate for infusion for human use.

DATES: Effective January 5, 1979; comments by February 5, 1979.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certificaton of vidarabine monohydrate for infusion. The Commissioner concludes that the data supplied by the manufacturer on vidarabine monohydrate are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 436 and 455 (21 CFR Parts 436 and 455) to provide for certification of vidarabine monohydrate for infusion.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 436 and 455 are amended as follows:

## PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 436 is amended in § 436.35(c) by alphabetically inserting the following new item in the table, as follows:

**§ 436.35 Histamine test.**

* * * * * *

(c) * * *

| Antibiotic | Diluent (diluent number as listed in Sec. 436.31(b)) | Concentration of test solution (milligrams of activity per milliliter) | Volume of test solution to be injected (milliliters per kilogram of body weight) |
|---|---|---|---|
| * * * * * * * | | | |
| Vidarabine monohydrate [1]..... | 4 | 1.0 | 1.0 |
| * * * * * * * | | | |

[1] To prepare the test solution, proceed as directed in the individual section of the antibiotic drug regulation in this chapter for the antibiotic to be tested.

* * * * * * *

## PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

2. Part 455 is amended by adding new § 455.290 to read as follows:

**§ 455.290 Vidarabine monohydrate for infusion.**

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Vidarabine monohydrate for infusion contains in each milliliter vidarabine monohydrate equivalent to 187.4 milligrams of vidarabine in an aqueous suspension containing suitable and harmless buffers and preservatives. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of vidarabine that it is represented to contain. It is sterile. It is nonpyrogenic. It contains no histamine or histamine-like substances. Its pH is not less than 5.0 and not more than 6.2. The vidarabine monohydrate used conforms to the standards prescribed by § 455.90a (a)(1).

(2) *Labeling.* In addition to the labeling requirements prescribed by § 432.5 of this chapter, this drug shall be labeled "vidarabine for infusion".

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The vidarabine monohydrate used in making the batch for vidarabine content, safety, loss on drying, specific rotation, and identity.

(*b*) The batch for vidarabine content, sterility, pyrogens, histamine, and pH.

(ii) Samples required:

(*a*) The vidarabine monohydrate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 16 immediate containers.

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

(b) *Tests and methods of assay—*(1) *Vidarabine content.* Proceed as directed in § 455.90a(b)(1), except prepare the sample solution and calculate the vidarabine content as follows:

(i) *Sample solution.* Using a suitable needle and syringe, remove an accurately measured representative portion from each container and dissolve and dilute the sample with warmed distilled water to give a concentration of 0.3 milligram of vidarabine per milliliter.

(ii) *Calculations.* Calculate the vidarabine content as follows:

$$\text{Milligrams of vidarabine per milliliter} = \frac{A_1}{A_2} \times \frac{\text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram} \times f}{100{,}000}$$

where:

$f$=Dilution factor for the sample;
$A_1$=Absorbance of the eluted sample solution at 255 nm;
$A_2$=Absorbance of the eluted working standard solution at 255 nm.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(2) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 10 milligrams of vidarabine per milliliter.

(4) *Histamine.* Proceed as directed in § 436.35 of this chapter. Apply sufficient heat to dissolve the vidarabine.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted suspension.

Because the conditions prerequisite for certification of this drug have been met, and because the matter is noncontroversial, the Commissioner finds that prior notice and public procedure are impracticable and unnecessary and that the amendment may become effective upon the day of publication.

Interested persons may, on or before February 5, 1979 file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments, in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

*Effective date.* This regulation shall be effective January 5, 1979.

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

Dated: December 27, 1978.

PHILIP L. PAQUIN,
*Acting Assistant Director for Regulatory Affairs.*

[FR Doc. 79-225 Filed 1-4-79; 8:45 am]

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[4110-03-M]

## SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

### Fenbendazole Granules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Hoechst-Roussel Pharmaceuticals, Inc., providing for safe and effective use of anthelmintic granules on the grain ration of horses.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Pharmaceuticals, Inc., Route 202-206 North, Somerville, NJ 08876, filed an NADA (111-278V) providing for use of fenbendazole granules as a top dressing on the usual grain ration of horses for control of large strongyles, small strongyles, pinworms, and ascarids. The firm holds approval for use of fenbendazole suspension in horses either orally or by stomach tube for the same indications and at the same dosage level.

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 approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), 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 5.83), Part 520 is amended by redesignating existing § 520.905 as § 520.905a and by adding new §§ 520.905 and 520.905b to read as follows:

**§ 520.905 Fenbendazole oral dosage forms.**

**§ 520.905a Fenbendazole suspension.**

* * * * *

**§ 520.905b Fenbendazole granules.**

(a) *Specification.* The drug is in granular form containing 22 percent (222 milligrams per gram) fenbendazole.

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

(c) *Conditions of use.* (1) *Amount.* 5 milligrams per kilogram (2.3 milligrams per pound) for the control of large stronglyes, small strongyles, and pinworms; 10 milligrams per kilogram for the control of ascarids.

(2) *Indications for use.* For the control of large strongyles (*Strongylus edentatus, S. equinus, S. vulgaris*), small strongyles (*Cyanthostomum* spp., *Cylicocyclus* spp., *Cylicostephanus* spp., *Triodontophorus* spp.), pinworms (*Oxyuris equi*), and ascarids (*Parascaris equorum*) in horses.

(3) *Limitations.* Sprinkle the appropriate amount of drug on a small amount of usual grain ration. Prepare for each horse individually. Withholding of feed or water not necessary. Do not use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

*Effective date.* This regulation is effective January 5, 1979.

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

Dated: December 27, 1978.

TERENCE HARVEY,
*Acting Director, Bureau of Veterinary Medicine.*

[FR Doc. 79-226 Filed 1-4-79; 8:45 am]

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[4830-01-M]

## Title 26—Internal Revenue

## CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX
[T.D. 7587]

## PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

### Distributions of Property to Foreign Corporate Shareholders.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to distributions of property to foreign corporate shareholders. Changes to the applicable tax law were made by the Revenue Act of 1971. These regulations provide necessary guidance to the public for compliance with the law, and affect all foreign corporate shareholders which receive distributions of property from domestic corporations.

EFFECTIVE DATE: The regulations are applicable to distributions after November 8, 1971.

FOR FURTHER INFORMATION CONTACT:

David Dolan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T, 202-566-3803 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On May 7, 1976, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 301 of the Internal Revenue Code of 1954 (41 FR 18859). The amendments were proposed to conform the regulations to section 312 of the Revenue Act of 1971 (85 Stat. 526). After consideration of all comments regarding the proposed amendment, these amendments are adopted as revised by this Treasury decision.

IMPLEMENTATION OF THE REVENUE ACT OF 1971

Section 312 (a) of the Revenue Act of 1971 amended section 301 of the Internal Revenue Code of 1954 to provide that the amount of a corporate distribution of property other than cash made after November 8, 1971, to a foreign corporate shareholder and the distributee's basis in the distributed property equal the fair market value of the property. Under prior law, the amount of the distribution and the distributee's basis equaled the lesser of the property's fair market value or its adjusted basis in the hands of the distributing corporation increased by gain required to be recognized by the distributing corporation. The amendments to the regulations provided in this document are adopted in order to conform § 1.301-1 of the regulations to the changes made to section 301 by the Revenue Act of 1971.

First, paragraph (d) of § 1.301-1 of the Income Tax Regulations is amended to provide that the amount of a corporate distribution of property other than cash to a foreign corporate shareholder after November 8, 1971, equals the fair market value of the property if the distribution is not effectively connected for the taxable year with the conduct of trade or business in the United States by the shareholder. Paragraph (d), as amended, is also reorganized for the purpose of clarification.

Second, paragraph (h) of § 1.301-1, as amended, provides that the basis of the distributed property in the hands of the foreign corporate shareholder equals its fair market value.

Third, paragraph (j) of § 1.301-1 is amended to provide that, with respect to a transfer of property after November 8, 1971, to a foreign corporate shareholder for less than its fair market value, the difference between the fair market value and the transfer price of the property is considered a distribution subject to section 301 if the amount received is not effectively connected with the conduct of a trade or business in the United States by the shareholder.

PUBLIC COMMENTS

No significant public comments were received with respect to the proposed regulations.

DRAFTING INFORMATION

The principal author of this regulation was Jason R. Felton of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, on matters of both substance and style.

*Adoption of amendments to the regulations:* After consideration of all relevant matters presented by interested persons regarding the proposed amendments to the regulations under section 301, the amendments as proposed are hereby adopted subject to the following changes:

PARAGRAPH 1. Paragraph 1 of the appendix to the notice of proposed rulemaking is amended to read as follows:

PARAGRAPH 1. § 1.301 is deleted.

PAR. 2. Paragraph (d)(3) of § 1.301-1, as set forth in paragraph 2 of the appendix to the notice of proposed rulemaking, is revised to read as follows:

*§ 1.301-1 Rules applicable with respect to distributions of money and other property.*

* * * * *

(d) *Distributions to corporate shareholders.* * * *

(3) Nothwithstanding paragraph (d)(1)(iii), if a distribution of property described in such paragraph is made after December 31, 1962, by a foreign corporation to a shareholder which is a corporation, the amount of the distribution to be taken into account under section 301 (c) shall be determined under section 301(b)(1)(C) and paragraph (n) of this section.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
*Commissioner of Internal Revenue.*

Approved: December 27, 1978.

DANIEL I. HALPERIN,
*Acting Assistant Secretary of the Treasury.*

§ 1.301 [Deleted]

PARAGRAPH 1. Section 1.301 is deleted.

PAR. 2. Section 1.301-1 is amended by revising paragraph (d), by revising that part of paragraph (h)(2) which follows subdivision (i) thereof, by revising that part of paragraph (j) which follows subparagraph (2) thereof, and by revising paragraph (n)(1), as follows:

**§ 1.301-1 Rules applicable with respect to distributions of money and other property.**

* * * * *

(d) *Distributions to corporate shareholders.* (1) If the shareholder is a corporation, the amount of any distribution to be taken into account under section 301(c) shall be:

(i) The amount of money distributed,

(ii) An amount equal to the fair market value of any property distributed which consists of any obligations of the distributing corporation, stock of the distributing corporation treated as property under section 305(b), or rights to acquire such stock treated as property under section 305(b), plus

(iii) In the case of a distribution not described in subdivision (iv) of this subparagraph, an amount equal to (*a*) the fair market value of any other property distributed or, if lesser, (*b*) the adjusted basis of such other property in the hands of the distributing corporation (determined immediately before the distribution and increased for any gain recognized to the distrib-

uting corporation under section 311 (b), (c), or (d), or under section 341(f), 617(d), 1245(a), 1250(a), 1251(c), or 1252(a)), or

(iv) In the case of a distribution made after November 8, 1971, to a shareholder which is a foreign corporation, an amount equal to the fair market value of any other property distributed, but only if the distribution received by such shareholder is not effectively connected for the taxable year with the conduct of a trade or business in the United States by such shareholder.

(2) In the case of a distribution the amount of which is determined by reference to the adjusted basis described in subparagraph (1)(iii)(b) of this paragraph:

(i) That portion of the distribution which is a dividend under section 301(c)(1) may not exceed such adjusted basis, or

(ii) If the distribution is not out of earnings and profits, the amount of the reduction in basis of the shareholder's stock, and the amount of any gain resulting from such distribution, are to be determined by reference to such adjusted basis of the property which is distributed.

(3) Notwithstanding paragraph (d)(1)(iii), if a distribution of property described in such paragraph is made after December 31, 1962, by a foreign corporation to a shareholder which is a corporation, the amount of the distribution to be taken into account under section 301(c) shall be determined under section 301(b)(1)(C) and paragraph (n) of this section.

* * * * *

(h) *Basis.* * * *

(2) * * *

(ii) In the case of the distribution of any other property, except as provided in subdivision (iii) (relating to certain distributions by a foreign corporation) or subdivision (iv) (relating to certain distributions to foreign corporate distributees) of this subparagraph, whichever of the following is the lesser—

(a) The fair market value of such property; or

(b) The adjusted basis (in the hands of the distributing corporation immediately before the distribution) of such property increased in the amount of gain to the distributing corporation which is recognized under section 311(b) (relating to distributions of LIFO inventory), section 311(c) (relating to distributions of property subject to liabilities in excess of basis), section 311(d) (relating to appreciated property used to redeem stock), section 341(f) (relating to certain sales of stock of consenting corporations), section 617(d) (relating to gain from dispositions of certain mining property), section 1245(a) or 1250(a) (relating to gain from dispositions of certain depreciable property), section 1251(c) (relating to gain from disposition of farm recapture property), or section 1252(a) (relating to gain from disposition of farm land);

(iii) In the case of the distribution by a foreign corporation of any other property after December 31, 1962, in a distribution not described in subdivision (iv) of this subparagraph, the amount determined under paragraph (n) of this section;

(iv) In the case of the distribution of any other property made after November 8, 1971, to a shareholder which is a foreign corporation, the fair market value of such property, but only if the distribution received by such shareholder is not effectively connected for the taxable year with the conduct of a trade or business in the United States by such shareholder.

* * * * *

(j) *Transfers for less than fair market value.* * * *

Flush material

If property is transferred in a sale or exchange after December 31, 1962, by a foreign corporation to a shareholder which is a corporation for an amount less than the amount which would have been computed under paragraph (n) of this section if such property had been received in a distribution to which section 301 applied, such shareholder shall be treated as having received a distribution to which section 301 applies, and the amount of the distribution shall be the excess of the amount which would have been computed under paragraph (n) of this section with respect to such property over the amount paid for the property. Notwithstanding the preceding provisions of this paragraph, if property is transferred in a sale or exchange after November 8, 1971, by a corporation to a shareholder which is a foreign corporation, for an amount less than its fair market value, and if paragraph (d)(1)(iv) of this section would apply if such property were received in a distribution to which section 301 applies, such shareholder shall be treated as having received a distribution to which section 301 applies and the amount of the distribution shall be the difference between the amount paid for the property and its fair market value. In all cases, the earnings and profits of the distributing corporation shall be decreased by the excess of the basis of the property in the hands of the distributing corporation over the amount received therefor. In computing gain or loss from the subsequent sale of such property, its basis shall be the amount paid for the property increased by the amount of the distribution.

* * * * *

(n) *Distributions of certain property by foreign corporations to corporate shareholders.* (1) If a foreign corporation distributes property (other than money, the obligations of the distributing corporation, stock of the distributing corporation treated as property under section 305(b), or rights to acquire such stock treated as property under section 305(b)) after December 31, 1962, to a shareholder which is a corporation in a distribution not described in paragraph (d)(1)(iv) of this section, then, except as provided in subparagraph (2) of this paragraph the fair market value of the property shall be taken into account under section 301(c).

* * * * *

[FR Doc. 79-387 Filed 1-4-79; 8:45 am]

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[6560-01-M]

## Title 40—Protection of the Environment

## CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1012-8]

## PART 65—DELAYED COMPLIANCE ORDERS

### Approval of a Delayed Compliance Order Issued by Iowa Department of Environmental Quality to Interstate Power Co., Kapp Station, Clinton, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by Iowa Department of Environmental Quality to the Interstate Power Company, Kapp Station. The Order requires the company to bring air emissions from its Unit No. 2 at Clinton, Iowa into compliance with certain regulations contained in the federally-approved Iowa State Implementation Plan (SIP). Because of the Administrator's approval, Interstate Power Company's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter J. Culver or Henry F. Rompage, EPA, Region VII, 1735 Baltimore, Kansas City, Missouri 64108, telephone 816-374-2576.

ADDRESS: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing approval of the Order are available for public inspection and copying during normal business hours at: EPA Region VII, Enforcement Division, 1735 Baltimore, Kansas City, Missouri 64108.

SUPPLEMENTARY INFORMATION: On September 29, 1978, the Regional Administrator of EPA's Region VII Office published in the FEDERAL REGISTER, 43 FR 44867, a notice proposing approval of a delayed compliance order issued by Iowa Department of Environmental Quality to the Interstate Power Company, Kapp Station. The notice asked for public comments by October 30, 1978, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice.

Therefore, the delayed compliance order issued to Interstate Power Company, Kapp Station is approved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Interstate Power Company, Kapp Station on a schedule to bring its Unit No. 2 at Clinton, Iowa into compliance as expeditiously as practicable with subrule 400—43(2)b Iowa Administrative Code, Combustion for indirect hearing, a part of the federally-approved Iowa State Implementation Plan. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Interstate Power Company, Kapp Station to delay compliance with the SIP regulations covered by the Order until June 29, 1979. The preamble of the notice of proposal to approve the Delayed Compliance Order published in the FEDERAL REGISTER on September 29, 1978, listed the final compliance date as September 29, 1979, rather than the correct date of June 29, 1979. However, since the order was also printed in full containing the correct date and since the correct date is actually earlier than the incorrect date, it has been determined unnecessary to repropose the approval of the Order. The company is unable to immediately comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the need to immediately place Interstate Power Company, Kapp Station on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the Iowa State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: December 21, 1978.

DOUGLAS M. COSTLE,
*Administrator.*

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

## PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.200 Federal delayed compliance orders issued under Section 113(d) (1), (3), and (4) of the Act.

. . . . . .

| Source | Location | Order No. | Date of FR proposal | SIP regulation involved | Final compliance date |
|---|---|---|---|---|---|
| . . | . | . | . | . | . |
| Interstate Power Co. Kapp Station. | Clinton, Iowa ..... | VII-78-DCO-11 .. | Sept. 29, 1978 | subrule 400—43(2)b. | June 29, 1979 |

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[FR Doc. 79-392 Filed 1-4-79; 8:45 am]

[6820-24-M]

## Title 41—Public Contracts and Property Management

## CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

### SUBCHAPTER A—GENERAL

[FPMR Temp. Reg. A-11, Supp. 6]

### APPENDIX—TEMPORARY REGULATIONS

### Changes to Federal Travel Regulations

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of FPMR Temporary Regulation A-11, Changes to Federal Travel Regulations, and Supplements 4 and 5 thereto. It is necessary that the provisions contained in the supplements remain in effect until superseded by a forthcoming revised edition of FPMR 101-7, Federal Travel Regulations.

DATES: Effective date: January 1, 1979. Expiration date: April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

John I. Tait, Director, Regulations and Management Control Division (703-557-1914).

(5 U.S.C. 5707.)

NOTE.—The General Services Administration has determined that this document contains only a nonsubstantive change to a significant regulation and is not subject to sections 2 or 3 of Executive Order 12044.

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of Subchapter A.

[Federal Property Management Regs., Temporary Reg. A-11, Supplement 6]

CHANGES TO FEDERAL TRAVEL REGULATIONS

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A-11 and Supplements 4 and 5 thereto.

2. *Effective date.* This regulation is effective January 1, 1979.

3. *Expiration date.* This regulation expires April 30, 1979.

4. *Explanation of change.* The expiration date for FPMR Temporary Regulation A-11 and Supplements 4 and 5 thereto, which appears in paragraph 3 of Supplement 5, is extended to April 30, 1979. Supplements 4 and 5 contain current provisions of the travel regulations which must remain in effect until superseded by a forthcoming revised edition of FPMR 101-7, Federal Travel Regulations. Promulgation of the revised edition is anticipated in the near future.

December 20, 1978.

PAUL E. GOULDING,
*Acting Administrator of General Services.*

[FR Doc. 79-425 Filed 1-4-79; 8:45 am]

# proposed rules



[3410-30-M]

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### [7 CFR Part 210]

### NATIONAL SCHOOL LUNCH PROGRAM

### State Advisory Councils

AGENCY: Food and Nutrition Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the National School Lunch Program regulations by implementing an amendment of Section 14 of the National School Lunch Act. Section 6(e) of P.L. 95-166 amends section 14 by requiring that each State educational agency receiving food assistance payments for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the National School Lunch Program. The council shall advise the State agency with respect to the needs of such schools concerning the manner of selection and distribution of commodity assistance for the National School Lunch Program.

DATES: To be assured of consideration comments must be received by March 6, 1979.

ADDRESS: Comments should be sent to: Margaret O'K. Glavin, Director, School Programs Division, FNS, USDA, Washington, D.C. 20250 (202-447-8130). Comments in response to this notice may be inspected at 500 12th Street, S.W., Room 610, Washington, D.C. during normal business hours (8:30 A.M. to 5:00 P.M.).

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Director, School Programs Division, FNS, USDA, Washington, D.C. 20250 (202-447-8130).

SUPPLEMENTARY INFORMATION: Section 6 of the National School Lunch Act as amended (42 U.S.C. 1755) requires the Secretary of Agriculture to make available a national average value of food commodities, of not less than ten cents per lunch served, to States for distribution to schools conducting nonprofit lunch programs pursuant to the National School Lunch Act. Where applicable, cash in lieu of commodities must be made available to States. The ten cents amount is subject to adjustments each year to reflect changes in the Price Index for Foods used in Schools and Institutions published by the Bureau of Labor Statistics of the Department of Labor. Section 6 of P.L. 95-166, enacted November 10, 1977, amends section 14 of the Act by requiring State educational agencies to establish an advisory council to advise such State agency with respect to the needs of schools concerning the manner of selection and distribution of commodity assistance for the school lunch program. This proposed amendment to the regulations would require each State educational agency to establish an advisory council which shall be composed of representatives of schools in the State that participate in the program. It would be the responsibility of the council to notify its State educational agency no later than April 1 of each year of its preferred selection and distribution of commodity assistance for the following school year. This amendment would also propose that the State educational agency notify FNS of the advisory council's findings no later than April 15 of each year. Advisory councils may be funded by State Administrative Expense funds. Where the State educational agency is also the State commodity distributing agency, funding may then also be used from the State food distribution assessment fund.

Interested persons are invited to submit written comments on the proposed amendments to the above address. To be assured of consideration, such comments must be received by January 15, 1979.

Accordingly, Part 210 would be amended as follows:

1. Section 210.2 is amended by adding a new paragraph (u) to read as follows:

**§ 210.2 Definitions.**

* * * * *

(u) "State Advisory Council" means a group of not less than ten representatives of schools participating in the lunch program in the State that meet and advise the State agency with respect to the needs of schools concerning the manner of selection and distribution of commodity assistance for the school lunch program.

* * * * *

2. A new § 210.21 would be added to read as follows:

**§ 210.21 State Advisory Councils.**

(a) Each State agency shall establish an advisory council to be composed of representatives of schools in the State that participate in the program. The State advisory council shall meet at least once each year and report to the State agency no later than April 1 of each year its recommendations concerning the manner of selection and distribution of commodity assistance for the next school year. The State agency shall inform FNS of the advisory council's recommendations no later than April 15 of each year.

(b) The structure of the advisory council shall be as follows:

(1) The Chairman of the advisory council shall be the Chief State school officer or his designee.

(2) The Vice Chairman of the advisory council shall be the Chief Officer of the State distributing agency which distributes USDA-donated foods to schools within the State unless the State educational agency and the State distributing agency are the same entity within the State in which case the Vice Chairman of the Advisory Council shall be the Chief Food Distribution Officer of the State educational agency.

(3) Other representatives shall include but are not limited to:

(i) A representative from a large urban school.

(ii) A representative from a small rural school.

(iii) A representative from the Parent Teachers Association.

(iv) A student of high school grade or under.

(v) A representative from a private school.

(c) Representatives to the advisory council shall be appointed for not more than three years. To promote continuity within the advisory council, initial appointments shall be selected for 1, 2, and 3-year terms.

(d) The responsibilities of the State advisory council shall be to provide the State agency, no later than April 1 of each year, the following information:

(1) The most desired foods.

(2) The least desired foods.

(3) Recommendations for new products. In addition the council should advise the State agency on such matters as:

(i) The amounts of each USDA food item desired.

(ii) Types of packaging and package sizes.

(iii) Shipping schedules.

(iv) Recommendations for changes in specifications.

(e) The State agency may make payments of any costs incurred for or by the council from State Administrative Expense funds: Provided, however, That State agencies which are the same entity as the State distributing agency may also use food distribution assessment funds.

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major porposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 10.550, National Archives Reference Services.)

Dated: December 29, 1978.

CAROL TUCKER FOREMAN,
*Assistant Secretary.*

[FR Doc. 79-484 Filed 1-4-79; 8:45 am]

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[3410-05-M]

**Commodity Credit Corporation**

**[7 CFR Parts 1421, 1446]**

**1979 PEANUT PROGRAM**

**Proposed Determination Regarding a Loan and Purchase Program**

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make determinations and issue regulations concerning a loan and purchase program, sales policy, and other related matters, for the 1979 crop of peanuts. The loan and purchase program is authorized by the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act").

The program is intended to stabilize market prices and to protect producers, handlers, processors and consumers. This notice invites comments on these proposed determinations.

DATES: Written comments must be received on or before February 5, 1979, in order to be sure of consideration.

ADDRESSES: Send comments to Acting Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Room 3741-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Thomas A. VonGarlem, ASCS, 202-447-7954.

SUPPLEMENTARY INFORMATION: The following determinations are required to be made by the Secretary in accordance with the provisions of subsection 108(a) of the Agricultural Act of 1949, as added by the Food and Agriculture Act of 1977:

1. *The national level of support for 1979 crop quota peanuts.* The Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts at such levels as he finds appropriate, but not less than $420 per ton. In determining price support levels, subsection 108(a) of the Act directs the Secretary to take into consideration: (a) Any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period January 1 through December 1, 1978, inclusive, and (b) the eight factors specified in section 401(b) of the Act, namely, the supply of the commodity in relation to the demand therefor, the levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

2. *The national level of support for 1979 crop additional peanuts.* The Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on "additional peanuts," which are defined as any peanuts which are marketed from a farm and which are in excess of the marketings of quota peanuts from such farm for the marketing year but not in excess of the actual production from the farm acreage allotment. This subsection requires that the loan rate for 1979 crop additional peanuts shall be announced not later than February 15, 1979, and that in determining this rate the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

*Sales policy.* The Department also invites comments on a sales policy for additional loan peanuts acquired under the 1979 program and sold for export for edible use.

Section 359(j) of the Agricultural Adjustment Act of 1938, contained in the Food and Agriculture Act of 1977, provides that additional peanuts received under loan may be sold for domestic edible use at not less than all cost incurred with respect to the peanuts sold, plus: (1) 100 percent of the quota loan value if sold and paid for during the harvest season and upon delivery by the producer, or (2) 105 percent of the quota loan value if sold after delivery but before December 31 of the marketing year, or (3) 107 percent of the quota loan value if sold later than December 31 of the marketing year.

PROPOSED RULE

The Secretary of Agriculture proposes to make determinations and issue regulations with regard to the following for 1979-crop peanuts:

(a) The national level of support for quota peanuts.

(b) The national level of support for additional peanuts.

(c) Sales policy for additional peanuts received under loan or acquired by the Commodity Credit Corporation under the 1979 program, and sold for export for edible use.

Before making any determinations, consideration will be given to any relevant data, views, recommendations, or alternative proposals which are submitted in writing to the Acting Director of the Price Support and Loan Division, ASCS-USDA. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3741, South Building.

NOTE: A draft impact analysis statement is available from Thomas A. VonGarlem (ASCS), 202-447-7954.

NOTE: Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the proposals will have no significant effect on the quality of the human environment.

Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least a 60-day public comment period on any proposed significant regulations except where the agency determines that this is not possible or in the best interest of the producers. Section 108(b) of the Food and Agriculture Act of 1977 mandates that the level of price support for 1979-crop additional peanuts be announced by February 15, 1979. Accordingly, I have determined that compliance with provisions of Executive Order 12044 is impossible and contrary to the public interest. Therefore, comments must be received by February 5, 1979, in order to be assured of consideration.

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

STEWART N. SMITH,
*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 79-416 Filed 1-4-79; 8:45 am]

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[3410-15-M]

**Rural Electrification Administration**

**[7 CFR Part 1701]**

**SPECIFICATIONS FOR ELECTRICAL EQUIPMENT ENCLOSURES (5-35 kV) AND SECONDARY PEDESTALS (600 VOLTS AND BELOW)**

AGENCY: Rural Electrification Administration, USDA.

ACTION: Revision to Existing Specifications.

SUMMARY: The Rural Electrification Administration (REA) proposes to revise REA Specifications U-4, U-6 and U-7. REA Specification U-4, presently entitled, "Sectionalizing and Single-Phase Transformer Enclosures," will become, "Electrical Equipment Enclosures (5-35 kV)," and will include the requirements of U-7, presently entitled, "Enclosures Containing Protective Equipment with Exposed Energized Parts." Specification U-7 will be eliminated. REA Specification U-6, presently entitled, "Secondary Pedestals," will become, "Secondary Pedestals (600 Volts and Below)."

These revisions are being made to reflect changes in manufacturing techniques and materials and provide REA borrowers with specifications which clearly define the dead-front equipment requirements.

DATE: Public comments must be received by REA no later than March 6, 1979.

ADDRESS: Interested persons may obtain copies of Specifications U-4 and U-6 from Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone Number (202) 447-4413. All data, views, or comments should be also be directed to Mr. Hand.

All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division, during regular business hours.

Dated: December 27, 1978.

RICHARD F. RICHTER,
*Assistant Administrator—Electric.*

[FR Doc. 79-492 Filed 1-4-79; 8:45 am]

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[6320-01-M]

## CIVIL AERONAUTICS BOARD

[EDR-366A; PDR-58A; PSDR-52A; Docket 33836; Dated January 2, 1979]

**[14 CFR Parts 221, 302, 399]**

**U.S. MAINLAND—PUERTO RICO/VIRGIN ISLANDS RATEMAKING ENTITY**

**Change in Tariff Justification; Revision of Complaint Procedures; Statements of General Policy**

SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

AGENCY: Civil Aeronautics Board.

ACTION: Supplementary notice of proposed rulemaking.

SUMMARY: This action extends for 10 days the filing date for comments in a rulemaking proceeding proposing to allow carriers to experiment with the price and quality of service options determined by the particular needs of the market being served.

DATE: Comments by January 12, 1979.

ADDRESS: Comments should be sent to Docket 33836.

FOR FURTHER INFORMATION CONTACT:

Steven McKinney, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5273.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking EDR-366/PDR-58/PSDR-52 (43 FR 51641, November 6, 1978) the Board proposed to extend the policies developed for the *Domestic Passenger Fare Rulemaking* to the U.S. mainland—Puerto Rico/Virgin Islands ratemaking entity. The policies allow carriers to experiment with price/quality of service options tailored to their individual costs and the requirements of the individual markets. Under the new policies, ceiling fares are established as a base from which carriers are permitted to set fares upward and downward within specified zones. Fares within the zones ordinarily would not be suspended on grounds that they might be unreasonable. The zones would permit fair competition, while the maximums would protect against unwarranted fares where competition is an insufficient check.

Delta Airlines has requested a 10-day extension to January 12, 1979. The basis of this request was that as of December 21, Delta had not received copies of comments that were due by December 18, and needs more time to adequately prepare a reply comment.

There have been no previous extensions requested in this proceeding, no specific target date has been set, and the granting of this extension would not interfere unduly with the rights of any parties or with the procedures of the Board.

Upon consideration of the above, the undersigned finds good cause to grant the request for an extension of time for the preparation of views on the proposed rule.

Accordingly, pursuant to authority delegated in § 385.20 of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing reply comments is extended to January 12, 1979.

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

RICHARD B. DYSON,
*Associate General Counsel, Rules and Legislation.*

[FR Doc. 79-482 Filed 1-4-79; 8:45 am]

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[4110-03-M]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

**Food and Drug Administration**

**[21 CFR Parts 522 and 556]**

[Docket No. 78N-0435]

**ESTRADIOL BENZOATE, PROGESTERONE, TESTOSTERONE PROPIONATE, AND ESTRADIOL MONOPALMITATE FOR USE IN FOOD-PRODUCING ANIMALS**

**Proposed Revocation of Provisions**

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the regulations by revoking provisions that provide for the use in food-producing animals of certain endogenous compounds that are subject to a notice of opportunity for hearing proposing their withdrawal.

DATE: Written comments by February 5, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Woodrow M. Knight, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Wel-

fare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3134.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER, under Docket No. 78N-0434, the Director of the Bureau of Veterinary Medicine is issuing a notice of opportunity for hearing on a proposal to withdraw approval of new animal drug applications (NADA's) for products containing either estradiol benzoate and progesterone, estradiol benzoate and testosterone propionate, or estradiol monopalmitate. The ground for the proposed withdrawal is that new evidence not available when the applications were approved, evaluated together with the evidence available at the time of approval, shows that these drugs are not shown to be safe for use under the conditions of use prescribed in the labeling.

Consistent with this action, the Director is hereby proposing to amend the regulations by revoking the provisions that provide for the use of these drugs.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) 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), it is proposed that Parts 522 and 556 be amended as follows:

§§ 522.842, 522.844, 522.1940 [Revoked]

1. In Part 522 by revoking §§ 522.842 *Estradiol benzoate and testosterone propionate in combination*, 522.844 *Estradiol monopalmitate*, and 522.1940 *Progesterone and estradiol benzoate in combination.*

§§ 556.240, 556.250, 556.540, 556.710 [Revoked]

2. In Part 556 by revoking §§ 556.240 *Estradiol benzoate*, 556.250 *Estradiol monopalmitate*, 556.540 *Progesterone*, and 556.710 *Testosterone propionate.*

Interested persons may, on or before Feburary 5, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: December 29, 1978.

TERENCE HARVEY,
*Acting Director, Bureau of Veterinary Medicine.*

[FR Doc. 79-422 Filed 1-2-79; 3:12 pm]

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[4210-01-M]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Insurance Administration

### [24 CFR Part 1917]

[Docket No. FI-4827]

### NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the Town of Cherokee, Colbert County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Cherokee, Colbert County, Alabama. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Cherokee, Alabama. Send comments to: Mayor Jimmy Brown, Town Hall, Cherokee, Alabama 35616, or Mr. Danny Killeen, Muscle Shoals Council of Local Governments, P.O. Box 2358, Muscle Shoals, Alabama 35660.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Cherokee, Colbert County, Alabama, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Cherokee Branch.. | Approximately 250 feet downstream of Pike Rd. S.W. | 482 |
| | Just upstream of Pike Rd. S.W. | 485 |
| Brotherton Branch. | Approximately 520 feet upstream of the confluence with North Fork of Cherokee Branch. | 491 |
| North Fork Cherokee Branch. | Approximately 780 feet upstream of the confluence with Cherokee Branch. | 486 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review re-

quirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-124 Filed 1-4-79; 8:45 am]

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**[4210-01-M]**

**[24 CFR Part 1917]**

[Docket No. FI-4828]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for the City of East Brewton, Escambia County, Ala.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of East Brewton, Escambia County, Alabama.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, 615 Forrest Avenue, East Brewton, Alabama.

Send comments to: Mayor Malcolm Edwards or Ms. Karen Harold, City Clerk, City Hall, P.O. Box 2010, East Brewton, Alabama 36426.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of East Brewton, Escambia County, Alabama, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Conecuh River..... | Southern Corporate Limits, just downstream of State Highway 41. | 81 |
| Murder Creek..... | Just downstream of US Highway 29. | 85 |
| | Northeast Corporate Limits. | 91 |
| Mantle Branch..... | Just downstream of Dixon St. | 90 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-125 Filed 1-4-79; 8:45 am]

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**[4210-01-M]**

**[24 CFR Part 1917]**

[Docket No. FI-4829]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determinations for the City of Hamilton, Marion County, Ala.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Hamilton, Marion County, Alabama. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Hamilton, Alabama 35570.Send comments to: Mayor E. T. Sims, P. O. Box 188, Hamilton, Alabama 35570 or Mr. Danny Killeen, Muscle Shoals Council of Local Governments, P.O. Box 2358, Muscle Shoals, Alabama 35660.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Hamilton, Marion County, Alabama, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second

layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Buttahatchee River. | Approximately 1000 feet upstream of County Road 35. | 385 |
| | Just upstream of U.S. Highways 278, 78 and 43. | 394 |
| | Just upstream of County Road 42. | 405 |
| | Approximately 300 feet upstream of U.S. Highway 278. | 410 |
| Williams Creek..... | Just upstream of old U.S. Highway 43. | 412 |
| Ragsdale Creek ..... | U.S. Highway 278 ..... | 412 |
| | Just upstream of 7th Ave. North. | 431 |
| Key Branch..... | Just downstream of U.S. Highways 43, 78, 278. | 414 |
| | Just upstream of U.S. Highways 43, 78, 278. | 421 |
| | Just downstream of 6th Ave. South. | 451 |
| | Just upstream of 6th Ave. South. | 458 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-126 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4830]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the unincorporated areas of Chicot County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Chicot County, Arkansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Judge's Office, Chicot County Courthouse, Lake village, Arkansas. Send comments to: Judge James Burchfield, Chicot County Judge, or Mr. M. R. Avery, Assistant to County Judge, Chicot County Courthouse, Lake Village, Arkansas 71653.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Chicot County, Arkansas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Caney Bayou—Main Channel. | Just upstream Arkansas State Highway 8. | 120 |
| | Just downstream Carroll Hill Rd. | 121 |
| Hensley Ditch..... | Just upstream of the confluence with Caney Bayou. | 120 |
| Little Lake Bayou. | Just downstream State Highway 82. | 119 |
| | Just upstream Arkansas State Highway 65. | 122 |
| Macon Bayou..... | Just upstream Missouri Pacific Railroad. | 108 |
| Big Bayou Slough. | Just upstream Arkansas State Highway 35. | 137 |
| Main Ditch 6..... | Just upstream of the confluence with Macon Bayou. | 112 |
| | Just downstream Old Arkansas State Highway 65. | 117 |
| Mississippi River... | Just upstream East Carroll Parish Louisiana Boundary. | 128 |
| | Just downstream Desha County Boundary. | 148 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-127 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4831]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the City of Brea, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Brea, Orange County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the na-

tional flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 401 South Brea Boulevard, Brea, California. Send comments to: Mr. Wayne Wedin, City Manager, City of Brea, City Hall, 401 South Brea Boulevard, Brea, California 92621.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Brea, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of looding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Carbon Canyon Channel. | Soquel Canyon Rd.—50 feet*. | 600 |
| | State Highway 142 (Carbon Canyon Rd.) (downstream crossing)— 20 feet*. | 672 |
| | State Highway 142 (Carbon Canyon Rd.) (upstream crossing)— 100 feet**. | 786 |
| | State Highway 142 (Carbon Canyon Rd.) (upstream crossing)— 60 feet*. | 802 |
| Brea Canyon Channel. | Arovista Park Bridge— 50 feet**. | 314 |
| | Arovista Park Bridge— 50 upstream*. | 319 |
| | Pacific Electric Railway—60 feet**. | 336 |
| | Pacific Electric Railway—50 feet*. | 348 |
| | Central Ave.—70 feet**... | 366 |
| | Central Ave.—50 feet* .... | 378 |
| Loftus Diversion Channel. | Greenbriar Lane—at centerline. | 313 |
| | Associated Rd.—at centerline. | 328 |
| Memory Garden Storm Channel. | Stone Bridge Dr.—20 feet*. | 483 |
| | Northwood Ave.—at centerline. | 535 |

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-128 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]
[Docket No. FI-4655]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the City of Oakdale, Stanislaus County, Calif.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 47568 of the FEDERAL REGISTER of October 16, 1978.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410

The following correction is made:

Wherever Alameda is stated as the name of the county, it should be corrected to read Stanislaus.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-129 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]
[Docket No. FI-4832]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the City of Placentia, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Placentia, Orange County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Civic Center, 401 East Chapman Avenue, Placentia, California. Send comments to: Mr. Edwin Powell, City Administrator, City of Placentia, Civic Center, 401 East Chapman Avenue, Placentia, California 92670.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Placentia, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Carbon Creek Channel. | Orange Freeway—200 feet*. | 198 |
| | Orange Freeway—150 feet**. | 205 |
| Carbon Canyon Channel. | Chapman Ave.—50 Feet*. | 240 |
| | Chapman Ave.—120 feet**. | 245 |
| | Palm Dr.—40 feet** | 281 |
| Atwood Channel ... | Atchison, Topeka & Santa Fe Railway—100 feet**. | 244 |
| | Lakeview Ave.—10 feet** | 256 |
| Atwood Channel ... | Lee Ana St.—at centerline. | 1 |

*Downstream of centerline.
**Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-130 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4833]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the City of Villa Park, Orange County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Villa Park, Orange County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 17855 San Diego Boulevard, Villa Park, California. Send comments to: Mr. Thomas Scott, City Administrator, City of Villa Park, City Hall, 17855 San Diego Boulevard, Villa Park, California 92667.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Villa Park, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Santiago Creek..... | Villa Park Rd.—at centerline. | |

| Source of Flooding | Location | 7308 Depth, feet above ground |
|---|---|---|
| Villa Park Storm Drain. | Intersection of Serrano Ave. and Center Dr.. | 2 |
| | Intersection of Santiago Blvd. and Center Dr.. | 2 |
| | Southwest corner of the intersection of Santiago Blvd. and Wanda Rd.. | 2 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's dele-

gation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-131 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4834]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the Town of Bridgewater, Litchfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Bridgewater, Litchfield County, Connecticut.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Bridgewater, Connecticut. Send comments to: The Honorable Henry Becker, First Selectman, Town of Bridgewater, Town Hall, Bridgewater, Connecticut 06752.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Bridgewater, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, (national geodetic vertical datum) |
|---|---|---|
| Wewaka Brook | Confluence with Lake Lillinonah. | 195 |
| | 1,000 feet upstream of confluence with Lake Lillinonah. | 195 |
| | 1,770 feet upstream of confluence with Lake Lillinonah. | 203 |
| | 50 feet downstream of Wooden Bridge. | 299 |
| | 65 feet downstream of Dam upstream of Wooden Bridge. | 316 |
| | Upstream side of Dam upstream of Wooden Bridge. | 337 |
| | At confluence with Wewaka Brook Tributary. | 342 |
| | Upstream side of Wewaka Brook Rd. | 358 |
| | Upstream side of first driveway above Wewaka Brook Rd. | 364 |
| | 60 feet downstream of second driveway above Wewaka Brook Rd. | 366 |
| | Downstream side of second pass under Wewaka Brook Rd. | 376 |
| | 870 feet upstream of second pass under Wewaka Brook Rd. | 406 |
| | 800 feet downstream of third pass under Wewaka Brook Rd. | 450 |
| | Downstream side of third pass under Wewaka Brook Rd. | 472 |
| | Downstream side of first driveway above third pass under Wewaka Brook Rd. | 484 |
| | Downstream side of fourth pass under Wewaka Brook Rd. | 510 |
| | Downstream side of Treat Rd. | 529 |
| | 95 feet upstream of Treat Rd. | 533 |
| | 920 feet upstream of Treat Rd. | 544 |
| Wewaka Brook Tributary. | At confluence with Wewaka Brook. | 342 |
| | 20 feet upstream of Wewaka Brook Rd. | 342 |
| | 25 feet downstream of Route 133. | 365 |
| | 1,700 feet upstream of Route 133. | 410 |
| | 1,700 feet downstream of second pass under Route 133. | 465 |
| | Upstream of second pass under Route 133. | 510 |
| | 70 feet downstream of Stuart Rd. | 559 |
| | 60 feet upstream of Stuart Rd. | 567 |
| | 20 feet upstream of first driveway above Stuart Rd. | 579 |
| | 200 feet upstream of first driveway above Stuart Rd. | 583 |
| | 620 feet upstream of Stuart Rd. | 587 |
| | 1,920 feet upstream of Stuart Rd. | 630 |
| | 1,745 feet downstream of Sara Sanford Rd. | 652 |
| | 85 feet downstream of Sara Sanford Rd. | 679 |
| | 65 feet upstream of Sara Sanford Rd. | 687 |
| | 370 feet upstream of Sara Sanford Rd. | 688 |
| | 400 feet upstream of Sara Sanford Rd. | 690 |
| | 1,300 feet upstream of Sara Sanford Rd. | 700 |
| Clapboard Oak Brook. | At confluence with Lake Lillinonah. | 195 |
| | 300 feet upstream of confluence with Lake Lillinonah. | 199 |
| | 910 feet upstream of confluence with Lake Lillinonah. | 215 |
| | Upstream of Hemlock Rd. No. 1. | 389 |
| | Downstream of Hemlock Rd. No. 2. | 461 |
| | Upstream of Hemlock Rd. No. 2. | 467 |
| | Upstream of Curtis Rd... | 519 |
| | 1,120 feet upstream of Curtis Rd. | 565 |
| | 2,120 feet upstream of Curtis Rd. | 596 |
| | 3,300 feet upstream of Curtis Rd. | 613 |
| | 4,300 feet upstream of Curtis Rd. | 653 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been

granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-132 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4835]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determinations for the Unincorporated Areas of Catoosa County, Ga.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas on Catoosa County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Commissioner's Office, County Courthouse, 206 West Nashville Street, Ringo, Georgia 30736. Send comments to: Mr. James Moreland, County Commissioner or Mr. Bobby Plemons, Administrative Assistant to County Commissioner, Catoosa County Courthouse, 206 West Nashville Street, Ringo, Georgia 30736.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Catoosa County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| South Chickamauga Creek. | Approximately 500 feet upstream of Graysville Rd.. | 698 |
| South Chickamauga Creek. | Just downstream of U.S. Highway 41 & 76 (Dixie Highway). | 755 |
| | Just upstream of State Highway 2 (Cleveland St.). | 761 |
| Peavine Creek..... | Just downstream of Interstate Highway 75. | 694 |
| | Just upstream of Boynton Dr.. | 722 |
| | Approximately 1000 feet upstream of Poplar Springs Rd.. | 742 |
| | Just downstream ot Three Notch Rd.. | 752 |
| East Chickamauga Creek. | Just upstream of Interstate Highway 75. | 782 |
| | Just upstream of Orr Rd.. | 797 |
| Spring Creek..... | Just upstream of the Tennessee-Georgia State Line. | 682 |
| | Just downstream of the confluence of Black Branch. | 684 |
| Black Branch..... | Just downstream of Lakeview Dr.. | 687 |
| | Just downstream of Cloud Springs Rd.. | 698 |
| Little Chickamauga Creek. | Just downstream of Interstate Highway 75. | 761 |
| | Just downstream of Georgia Highway 151. | 792 |
| West Chickamauga Creek. | Just upstream of Cloud Springs Rd.. | 682 |
| | Just downstream of Boynton Dr.. | 691 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-133 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4836]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determinations for the City of Clayton, Contra Costa County, Calif.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Clayton, Contra Costa County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Clayton, California. Send comments to: Mr. Peter Archuleta, City Administrator, City of Clayton, P.O. Box 380, Clayton, California 94517.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood eleva-

tions for the City of Clayton, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Mt. Diablo Creek .. | North Lydia Lane—at centerline. | 332 |
| | Black Diamond Way—15 feet*. | 394 |
| | Regency Dr.—80 feet**... | 505 |
| | Regency Dr.—100 feet*... | 514 |
| Mitchell Creek..... | Clayton Rd.—60 feet* ..... | 390 |
| | Private Rd.—15 feet* (located 1950 feet above mouth). | 414 |
| Donner Creek ..... | Marsh Creek Rd.—60 feet**. | 431 |
| | Marsh Creek Rd.—60 feet*. | 436 |
| | Private Drive—30 feet** (located 3555 feet above mouth). | 482 |
| | Private Drive—30 feet* (located 3555 feet above mouth). | 488 |

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-134 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4837]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the City of Fairburn, Fulton County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Fairburn, Fulton County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, Fairburn, Georgia. Send comments to: Mayor A. J. Green or Mr. Howell, City Administrator, City Hall, P.O. Box 145, Fairburn, Georgia 30213.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Fairburn, Fulton County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Line Creek..... | Sir Charles Dr. (extended). | 917 |
| | Intersection of Blue Flag Lane and Tall Deer Dr. | 923 |
| | Approximately 150 feet downstream of Rivertown Rd. | 939 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTICE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-135 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4838]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the City of Palmetto, Coweta and Fulton Counties, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations

listed below for selected locations in the City of Palmetto, Coweta and Fulton Counties, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Superintendent of Utilities Office, City Hall, 512 Locke Street, Palmetto, Georgia 30268. Send comments to: Mayor L. B. Bradley or Mr. W. H. Winslett, Superintendent of Utilities, City Hall, 512 Locke Street, Palmetto, Georgia 30268.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Palmetto, Coweta and Fulton Counties, Georgia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Little Bear Creek.. | Just downstream of Carlton Rd. | 930 |
| | Just downstream of Toombs Rd. | 963 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-136 Filed 1-4-79; 8:45 am]

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**[4210-01-M]**

**[24 CFR Part 1917]**

[Docket No. FI-4839]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determinations for the City of Rossville, Walker County, Ga.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Rossville, Walker County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, 500 McFarland Avenue, Rossville, Georgia 30741. Send comments to: Mayor Charles Sherrill or Ms. Joyce Wall, City Clerk, City Hall, 500 McFarland Avenue, Rossville, Georgia 30741.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Rossville, Walker County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Tributary to Chattanooga Creek. | Just upstream of Clark St. | 664 |
| | Just upstream of Hicks Ave. | 716 |
| Tributary along Carden Avenue. | Just downstream of Maple St. | 665 |
| Tributary along Williams Street. | Just upstream of Williams St. | 670 |
| | Just downstream of Glenn Ave. | 696 |
| Tributary along Andrews Street. | Just upstream of Rock Dam. | 698 |
| Dry Creek..... | Just upstream of Maple St. | 659 |
| Tributary No. 1 North-Dry Creek. | Just upstream of Indiana Ave. | 671 |
| | Just upstream of Lee St. | 676 |
| Tributary No. 2 South-Dry Creek. | Just upstream of Indiana Ave. | 671 |
| | Just downstream of McFarland Ave. | 685 |

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Tributary No. 4 West-Dry Creek. | Shear Dr. (extended)..... | 671 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMINEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-137 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4840]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the City of Trenton, Dade County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Trenton, Dade County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, P.O. Box 518, Trenton, Georgia 30752. Send comments to: Mayor R. D. Moore, or Mr. Gene Carter, City Recorder, City Hall, P.O. Box 518, Trenton, Georgia 30752.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Trenton, Dade County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation, in feet, national geodetic vertical datum |
|---|---|---|
| Lookout Creek..... | Glenview Drive extended. | 711 |
| | Confluence of Town Creek. | 702 |
| Town Creek..... | Just upstream of Main Avenue (U.S. Highway 11). | 726 |
| | Just downstream of Railroad St. | 715 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-138 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4841]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the Town of Trion, Chattooga County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Trion, Chattooga County, Georgia.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Mayor's Office, Town Hall, Park Avenue, Trion, Georgia.

Send comments to: Mayor J. C. Woods or Mr. Tom Grubbs, Building Inspector, Town Hall, Park Avenue, Trion, Georgia 30753.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Trion, Chattooga County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968

(Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Chattooga River.... | Just downstream of U.S. Highway 27. | 659 |
| | Just upstream of Riegel Dam. | 674 |
| | Confluence of Cane Creek. | 681 |
| Spring Branch..... | Approximately 200 feet upstream of Central Ave. | 669 |
| Trion Branch..... | Approximately 200 feet upstream of Allgood Street. | 664 |
| | Approximately 200 feet downstream of Tavern Lane. | 665 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-139 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4842]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the City of Union City, Fulton County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Union City, Fulton County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, 5047 Union Street, Union City, Georgia 30291. Send comments to: Mayor B. D. Adams, or Mr. James Mallett, City Engineer, City Hall, 5047 Union Street, Union City, Georgia 30291.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Union city, Fulton County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Deep Creek ..... | Just upstream of High Point Rd. | 840 |
| | Ward Road Extended..... | 901 |
| Highpoint Creek ... | Approximately 700 feet upstream of the confluence with Deep Creek. | 841 |
| | Just downstream of Highpoint Rd. | 853 |
| Shannon Creek ..... | Eastern Corporate Limits. | 905 |
| | Northern Corporate Limits. | 942 |
| Windham Creek.... | Eastern Corporate Limits. | 904 |
| Whitewater Creek | Southern Corporate Limits. | 924 |
| | Just downstream of Jonesboro Rd. | 948 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-140 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4843]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Village of Brooklyn, St. Clair, County Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the pro-

posed base (100-year) flood elevations listed below for selected locations in the Village of Brooklyn, St. Clair County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Brooklyn Village Hall, 310 South Fifth Street, Lovejoy, Illinois. Send comments to: The Honorable Marcelus West, Mayor, Village of Brooklyn, Village Hall, 310 South Fifth Street, Lovejoy, Illinois 62059.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Brooklyn, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Rainfall Ponding Within The Community. | At the intersection of the Eastern and Northern corporate limit. | 409 |
| | Corner of Monroe St. and Fifth St. | 411 |
| | 400 feet North of the crossing of the Norfolk & Western Railway and the Illinois Terminal Railroad. | 411 |
| | 400 feet North and 400 feet East of the levee at the Southern corporate limit. | 420 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-141 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4844]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the Village of Frankfort, Will County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Frankfort, Will County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Administrator's Office, Frankfort, Illinois. Send comments to: The Honorable Gleen Warning, Village President, Village of Frankfort, Village Administrator's Office, 123 West Kansas Street, Frankfort, Illinois 60423.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Frankfort, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, nation geodetic vertical datum |
|---|---|---|
| Tributary 1 of Hickory Creek. | 1,250 feet downstream from Indiana Court at western corporate limit. | 690 |
| | Just downstream of Indiana Court. | 695 |
| | Just upstream of Indiana Court. | 701 |
| | At Birchwood Rd..... | 701 |
| | 100 feet upstream from Box Elder. | 702 |
| | 100 feet downstream from Locust St. | 704 |

| Source of flooding | Location | Elevation in feet, nation geodetic vertical datum |
|---|---|---|
| | Just downstream from Chelsea School Rd. | 708 |
| | 400 feet downstream from confluence of Tributary A of Hickory Creek. | 711 |
| | 100 feet upstream confluence of Tributary A of Hickory Creek. | 712 |
| | 500 feet downstream from Frankfort St. | 714 |
| | At Frankfort St | 715 |
| | 300 feet upstream from Frankfort St. | 716 |
| | 1,300 feet upstream from Frankfort St. at eastern corporate limit. | 719 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-142 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4371]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the City of Woodstock, McHenry County, Ill.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 35500 of the FEDERAL REGISTER of August 10, 1978.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Silver Creek | Seminary Avenue | 881 |

Should be corrected to read:

| | | |
|---|---|---|
| Silver Creek | 900 feet Upstream of Seminary Avenue. | 881 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-144 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4802]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the City of Humboldt, Humboldt County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Humboldt, Humboldt County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Humboldt, Iowa. Send comments to: The Honorable LeRoy Jorgensen, Mayor, City of Humboldt, 29 South 5th Street, Humboldt, Iowa 50548.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Humboldt, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| West Des Moines River. | Southern Corporate Limits. | 1,062 |
| | 3900 feet downstream from Lewis Street. | 1,066 |
| | Upstream side of Lewis St. | 1,071 |
| | Upstream side of Sumner Ave. | 1,073 |
| | 500 feet upstream of U.S. Highway 169. | 1,076 |
| | Upstream side of dam 2250 feet above U.S. Highway 169. | 1,082 |
| | Western Corporate Limits. | 1,084 |
| Tributary A | At confluence with West Des Moines River. | 1,064 |
| | Downstream side of 5th St. | 1,066 |
| | Upstream side of 5th St. | 1,068 |
| | Downstream side of 3rd Ave. South. | 1,070 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-145 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4803]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the City of Princeton, Scott County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Princeton, Scott County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Princeton, Iowa. Send comments to: The Honorable Chuck L. Brockman, Mayor, City of Princeton, City Hall, Princeton, Iowa 52768.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Princeton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Mississippi River... | Downstream corporate limit. | 582 |
| | Upstream corporate limit. | 583 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Depatment of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-146 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4026]

## NATIONAL FLOOD INSURANCE PROGRAM

### Revision of Proposed Flood Elevation Determination for the City of Newton, Harvey County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Newton, Harvey County, Kansas. Due to recent engineering analysis, this proposed rule revised the proposed determinations of base (100-year) flood elevations published in 43 FR 24700 on June 7, 1978, and in the *Newton Kansan* published on April 19, 1978 and April 20, 1978, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Newton, Kansas. Send comments to: The Honorable Gilbert Buller, Mayor, City of Newton, City Hall, Newton, Kansas 67114.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Newton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Sand Creek..... | Just Upstream of County Rd. 576 | 1402 |

| Source of flooding | Location | Elevation, in feet, national geodetic vertical datum |
|---|---|---|
| | (extraterritorial). | |
| | Just Upstream of Atchison, Topeka & Santa Fe Railway (extraterritorial). | 1408 |
| | Just Downstream of S.W. 14th St. (extraterritorial). | 1413 |
| | Just Downstream of Dam at Downstream Corporate Limits. | 1417 |
| | Just Downstream of West 10th St. | 1422 |
| | Just Upstream of Missouri Pacific Railroad (extraterritorial). | 1425 |
| Slate Creek | Just Upstream of Confluence with Sand Creek. | 1415 |
| | Just Upstream of Atchison, Topeka & Santa Fe Railway. | 1416 |
| | Just Upstream of South Plum St. | 1422 |
| | Just Upstream of Washington Rd. | 1430 |
| | Just Upstream of S.E. 4th St. | 1437 |
| | Just Upstream of South Kansas St. | 1439 |
| | Just Upstream of East 1st St. | 1444 |
| | Just Upstream of East 4th St. | 1451 |
| | Just Upstream of Interstate 135 West. | 1465 |
| | Just Upstream of Spencer Ave. | 1473 |
| South Branch Slate Creek. | Just Upstream of Confluence with Slate Creek. | 1433 |
| | Just Upstream of South Kansas St. | 1443 |
| | Just Upstream of Missouri Pacific Railroad. | 1450 |
| | Just Upstream of Rolling Hills Dr. | 1454 |
| | Just Upstream of Interstate 135. | 1463 |
| | Just Upstream of Spencer Ave. | 1468 |
| Country Club Branch Slate Creek. | Just Upstream of Confluence with South Branch Slate Creek. | 1444 |
| | Just Downstream of Dam, 0.42 Miles Upstream of Confluence with South Branch Slate Creek. | 1451 |
| Mud Creek | Just Upstream of U.S. Route 50 (extraterritorial). | 1421 |
| | Just Upstream of West 1st St (extraterritorial). | 1431 |
| | Just Upstream of West 12th St. | 1440 |
| | Just Upstream of West 24th St (extraterritorial). | 1450 |
| | Just Downstream of U.S. Route 81 (extraterritorial). | 1455 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-147 Filed 1-4-79; 8:45 am]

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[4210-01-M]

**[24 CFR Part 1917]**

[Docket No. FI-4804]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for the City of Tonganoxie, Leavenworth County, Kans.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Tonganoxie, Leavenworth County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's home, Tonganoxie, Kansas. Send comments to: The Honorable Lee Mark, Mayor, City of Tonganoxie, City Hall, 321 South Delaware, Tonganoxie, Kansas 66086.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Tonganoxie, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Tonganoxie Creek | Southeast corporate limit. | 843 |
| | Confluence of Tributary 1, south of 4th St. | 849 |
| | Just upstream of 4th St. | 851 |
| | Just upstream of 1st St. | 855 |
| | Northern corporate limit. | 859 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review re-

quirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-148 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4805]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the City of Ludlow, Kenton County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Ludlow, Kenton County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Building, Ludlow, Kentucky. Send comments to: Mayor Harold Klosterman or Mr. Paul Owhadi, City Manager, City Building, Ludlow, Kentucky 41016.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Ludlow, Kenton County, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation, in feet, national geodetic vertical datum |
|---|---|---|
| Ohio River | Deverill Street extended | 496 |
| | Just downstream of Southern Railway Bridge. | 497 |
| Pleasant Run Creek. | Just upstream of Oak St | 496 |
| Pleasant Run Creek Tributary. | Approximately 100 feet downstream of Southern Railway bridge. | 497 |
| | Just downstream of corporate limits. | 511 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-149 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4806]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the Lexington—Fayette Urban County Government, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Lexington—Fayette Urban County Government, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 136 Walnut Street, Lexington, Kentucky 40507. Send comments to: Mayor James Amato or Mr. Chris King, Planning Director, City Hall, 136 Walnut Street, Lexington, Kentucky 40507.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Lexington—Fayette Urban County Government, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second

layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation, in feet, national geodetic vertical datum |
|---|---|---|
| South Elkhorn Creek. | Just upstream of Bosworth Lane. | 836 |
| | Just upstream of US Highway 68. | 894 |
| | Just upstream of Clays Mill Rd. | 920 |
| | Just downstream of Monticello Blvd. | 966 |
| | Just upstream of Monticello Blvd. | 969 |
| Steeles Run | Just upstream of Redd Rd. | 820 |
| | Just downstream of Elk Chester Rd. | 850 |
| | Just upstream of Elk Chester Rd. | 853 |
| IBM Tributary | Approximately 100-feet downstream IBM Rd. to Russell Cave Rd. | 931 |
| | Approximately 50-feet upstream IBM Rd. to Russell Cave Rd. | 940 |
| North Elkhorn Creek. | Just upstream Louisville & Nashville Railroad. | 904 |
| Hume Rd. Tributary. | City of Lexington Northeastern Corporate Limits (extended). | 942 |
| | Just downstream Hume Rd. | 955 |
| I-75 Tributary | Just upstream I-75 | 924 |
| | Just upstream US 60 | 930 |
| Eastland Park Tributary. | Just upstream of City of Lexington southwestern Corporate Limits. | 942 |
| | Just downstream of Kilkenny Dr. | 963 |
| Kentucky River | Just upstream Jessamine and Fayette Counties Boundary. | 581 |
| | Just downstream Fayette and Clark Counties Boundary. | 590 |
| Cave Creek | Just upstream Bowmans Mill Rd. | 888 |
| | Confluence of Dogwood Tributary. | 938 |
| Parkers Mill Tributary. | Just upstream Parkers Mill Rd. | 876 |
| Dogwood Tributary. | Huffman Rd (Extended) | 951 |
| Stonewall Estates Tributary. | Just upstream Higbee Mill Rd. | 906 |
| | Just upstream Clays Mill Rd. | 961 |
| Indian Hills Tributary. | Wellington Way | 951 |
| West Hickman Creek. | Just upstream Tates Creek Rd. | 907 |
| | Just upstream Armstrong Mill Rd. | 914 |
| | Just upstream New Circle Rd. (State Highway 4). | 930 |
| | Just downstream Mount Tabor Rd. | 941 |
| | Just upstream Lexington Mall Entrance. | 978 |
| Melody Village Tributary. | Just downstream Tates Creek Rd. | 911 |
| | Just upstream Tates Creek Rd. | 916 |
| Wilson Downing Rd. Tributary. | Just downstream Camelot Dr. | 934 |
| | Just upstream Camelot Dr. | 938 |
| | Just downstream Medlock Rd. | 970 |
| | Just upstream Medlock Rd. | 972 |
| Tates Creek Rd. Tributary. | Just downstream Tates Creek Rd. | 924 |
| | Just downstream Kirk Levington South Dr. | 928 |
| | Just upstream Kirk Levington South Dr. | 931 |
| | Just upstream of New Circle Ramp (North of New Circle Rd. | 941 |
| | Just downstream Mount Tabor Rd. | 974 |
| | Just upstream Mount Tabor Rd. | 979 |
| Lansdowne Dr. Tributary. | Braemar Dr | 955 |
| | Zandale Dr | 962 |
| Shadeland Tributary. | Confluence with Tates Creek Rd. Tributary. | 981 |
| Idle Hour Tributary. | Lexington Mall Access Rd. | 977 |
| | Confluence with West Hickman Creek. | 977 |
| Town Branch | Just downstream of Yarnallton Rd. | 834 |
| | Just upstream of Yarnallton Rd. | 837 |
| | Danada Farm Rd | 862 |
| | Just downstream Bizzell Dr. | 881 |
| | Just upstream of Bizzell Dr. | 887 |
| | Old Frankfort Pike | 907 |
| | Just downstream Jefferson St. (culvert). | 933 |
| Bracktown Branch. | Just upstream L & N Railroad. | 849 |
| | Just downstream Greendale Rd. | 905 |
| | Just upstream Greendale Rd. | 907 |
| Greendale Rd. Tributary. | Approximately 250 feet upstream of confluence with Bracktown Branch. | 909 |
| Wolf Run | Just downstream Old Frankfort Pike. | 870 |
| | Just upstream Old Frankfort Pike. | 872 |
| | Just downstream of Cambridge Ave. | 887 |
| | Just upstream of Cambridge Ave. | 889 |
| | Just downstream Versailles Rd. | 900 |
| | Just upstream Versailles Rd. | 903 |
| | Just downstream Beacon Hill Rd. | 920 |
| | Just upstream of Beacon Hill Rd. | 922 |
| | Clays Mill Rd | 949 |
| Vaughns Branch | Just downstream Chantilly St. | 893 |
| | Just upstream Chantilly St. | 895 |
| | Just downstream of Oxford Circle. | 898 |
| | Just upstream Oxford Circle. | 900 |
| | Pine Meadow Rd | 916 |
| | Just downstream Gibson Ave. | 942 |
| Big Elm Tributary | Mason Headley Rd | 930 |
| | Just downstream Bob-O-Link Dr. | 964 |
| Parkers Mill Rd. Tributary. | Devonport Dr | 898 |
| | Just upstream of Lane Allen Rd. | 950 |
| Colonial Dr. Tributary. | Confluence with Parkers Mill Rd. Tributary. | 906 |
| Beacon Hill Tributary. | Approximately 260 feet upstream of confluence with Wolf Run. | 925 |
| Turfland Mall Tributary. | Lane Allen Rd | 942 |
| East Hickman Creek. | Just upstream Tates Creek Rd. | 896 |
| | Just downstream US Highway 25 & 421. | 969 |
| Cadentown Branch. | Just downstream Todds Rd. | 1,015 |
| | Just upstream Todds Rd | 1,017 |
| Brighton Fork | Just downstream of Bryant Rd. | 1,008 |
| | Just upstream of Bryant Rd. | 1,013 |
| Richmond Road Tributary. | Just upstream Squires Rd. | 971 |
| | Just downstream New Rd. | 1,000 |
| | Just upstream New Rd | 1,007 |
| Reservoir Tributary. | Just downstream Squires Rd. | 971 |
| | Just upstream Squires Rd. | 974 |
| Squires Rd. Tributary. | Just downstream Squires Rd. | 955 |
| | Just upstream Squires Rd. | 962 |
| Delong Rd. Tributary. | Just upstream Delong Rd. | 929 |
| | Just downstream Farm Pond. | 960 |
| | Just upstream of Farm Pond. | 963 |
| Armstrong Mill Rd. Tributary. | Just downstream Squires Rd. | 974 |
| | Just upstream Squires Rd. | 978 |
| Cane Run | Just downstream Berea Rd. | 857 |
| | Just downstream Newton Rd. | 912 |
| | Just upstream Newton Rd. | 918 |
| | Just downstream Park Bridge. | 923 |
| | Just downstream Russell Cave Rd. | 938 |
| | Just upstream Russell Cave Rd. | 940 |
| | Just downstream North Broadway. | 952 |
| UK Agriculture Station Branch. | Just downstream of State Route 922. | 894 |
| | Approximately 100 feet upstream of Pierson Dr. | 939 |
| | Just upstream of Allen Dr. | 942 |
| IBM Tributary | Just downstream New Circle Rd. | 928 |
| | Just upstream New Circle Rd. | 930 |
| | Approximately 100 feet downstream IBM Rd. to Russell Cave Rd. | |
| | Approximately 50 feet upstream IBM Rd. to Russell Cave Rd. | 940 |
| North Elkhorn Creek. | Just upstream Louisville & Nashville Railroad. | 904 |
| Hume Rd. Tributary. | City of Lexington Northeastern Corporate Limits (extended). | 942 |
| | Just downstream Hume Rd. | 955 |
| I-75 Tributary | Just upstream I-75 | 924 |
| | Just upstream US 60 | 930 |
| Eastland Park Tributary. | Just upstream of City of Lexington southwestern Corporate Limits. | 942 |
| | Just downstream of Kilkenny Dr. | 963 |

| Source of flooding | Location | Elevation, in feet, national geodetic vertical datum |
|---|---|---|
| Kentucky River..... | Just upstream Jessamine and Fayette Counties Boundary. | 581 |
| | Just downstream Fayette and Clark Counties Boundary. | 590 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-150 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4807]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Town of Groveland, Essex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Groveland, Essex County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Clerk's Office, Town Hall, Groveland, Massachusetts.Send comments to: Mr. Hobart B. Esty, Chairman, Board of Selectmen, Town of Groveland, Town Hall, Groveland, Massachusetts 01834.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Groveland, Massachusetts, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Merrimack River... | Bates Bridge—50 feet*.... | 20 |
| Argilla Brook..... | Main St.—150 feet* ..... | 23 |
| | Center St.—50 feet**..... | 49 |
| Johnson Creek ..... | Main St.—200 feet* ..... | 23 |
| | Gravel Road Over Dam—100 feet**. | 26 |
| | Gravel Road Over Dam—50 feet*. | 36 |
| | Center St.—50 feet* ..... | 40 |
| | Salem St.—150 feet** ..... | 65 |
| | Salem St.—50 feet*..... | 76 |
| | Uptack Rd.—50*..... | 77 |
| | Washington St.—50 feet**. | 77 |

* Upstream from centerline
** Downstream from centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-151 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4808]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Town of Southampton, Hampshire County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Southampton, Hampshire County, Massachusetts. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Planning Board Office, Town Hall, Southampton, Massachusetts. Send comments to: The Honorable Eugene Miller, Chairman, Board of Selectmen, Town of Southampton, Town Hall, Southampton, Massachusetts 01073.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Southampton, in

accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Broad Brook | South Corporate Limits. | 219 |
| | 0.50 mile above South Corporate Limit. | 219 |
| | Just downstream of Farm Bridge. | 223 |
| | Just upstream of Farm Bridge. | 224 |
| Manhan River | North Corporate Limit | 142 |
| | Just downstream of South Main St. | 149 |
| | Just downstream of Gunn Rd. | 154 |
| | 0.1 mile upstream of Gunn Rd. | 156 |
| | Confluence with Tripple Brook. | 163 |
| | Confluence with Potash Brook. | 167 |
| | Just upstream of East St. | 170 |
| | Just downstream of Conrail. | 178 |
| | Just upstream of a dam 200 feet upstream from Conrail. | 190 |
| | 1.2 miles upstream of Route 10 Bridge. | 198 |
| | Just upstream of Gilbert Rd. | 200 |
| | South Central Corporate Limits. | 206 |
| | South West Corporate Limits. | 236 |
| | Confluence with Sacket Brook. | 249 |
| | Just downstream of Russellville Rd. | 259 |
| | Just upstream of Russellville Rd. | 259 |
| | 0.25 mile upstream of Russellville Rd. | 273 |
| North Branch Manhan River. | Confluence with South Branch Manhan River. | 142 |
| | Just upstream of Pomeroy Meadow Rd. | 143 |
| | 0.6 miles upstream of Pomeroy Meadow Rd. | 144 |
| | 1.1 miles upstream of Pomeroy Meadow Rd. | 159 |
| | Just downstream Glendale Rd. | 183 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-152 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4445]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the City of Bridgman, Berrien County, Mich.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 38719 of the FEDERAL REGISTER of August 30, 1978.

EFFECTIVE DATE: August 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

The following correction is made:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Tanner Creek-William and Esseg Drain. | Confluence with Lake Michigan. | 584 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-153 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4348]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determinations for the City of Rockwood, Wayne County, Mich.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 35062 of the FEDERAL REGISTER of August 8, 1978.

EFFECTIVE DATE: August 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or Toll Free Line 800-424-8872,

The following:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Huron River | 250 feet upstream of Conrail (at Fort Street). | 585 |

Should be corrected to read:

| | | |
|---|---|---|
| Huron River | Just upstream of Conrail (at Fort Street). | 585 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMINEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-154 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4370]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determinations for the City of Wheaton, Du Page County, Ill.; Correction**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 35499 of the FEDERAL REGISTER of August 10, 1978.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

The following:

| Source of Flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Winfield Creek ..... | 50 feet Downstream of Main St. | 733 |
| | 160 feet Upstream of Main St. | 734 |

Should be corrected to read:

| | | |
|---|---|---|
| Winfield Creek ..... | 50 feet Downstream of Main. | 732 |
| | 160 feet Upstream of Main St. | 733 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-143 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4809]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determinations for the City of Swartz Creek, Genesee County, Mich.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Swartz Creek, Genesee County, Michgan.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Swartz Creek, Michigan. Send comments to: Mr. Thomas Huntley, City Manager, City of Swartz Creek, 5037 First Street, Swartz Creek, Michigan 48473.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Swartz Creek, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| West Branch Swartz Creek. | Eastern corporate limits | 756 |
| | Just downstream from Grand Trunk Western railroad. | 759 |
| | Just downstream from Elms Rd. | 764 |
| | Just upstream from Morrish Rd. | 769 |
| | Western corporate limits. | 772 |
| Alger Creek ..... | Just upstream of mouth at West Branch Swartz Creek. | 771 |
| | Southern corporate limits. | 771 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTICE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-155 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4810]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the City of Columbia, Marion County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Columbia, Marion County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Columbia, Mississippi. Send comments to: Mayor Robert Borne or Mr. Don Crawley, City Clerk, City Hall, Columbia, Mississippi 39429.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Columbia, Marion County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Pearl River | Intersection of Old Foxworth Rd. and High School Ave. | 145 |
| | Approximately 200 feet east of intersection of Mississippi Hwy. 35 and Washington St. | 153 |
| Balls Mill Creek Tributary. | Just upstream of Lumberton Rd. | 147 |
| | Just downstream of Park Ave. | 147 |
| Dry Creek | Just upstream of Main St. | 150 |
| | Just downstream of High School Ave. | 154 |
| | Approximately 150 feet upstream of West Ave. | 160 |
| | Approximately 100 feet upstream of Park Ave. | 167 |
| Webb Creek | Just upstream of Mississippi State Highway 13. | 150 |
| | Approximately 150 feet upstream of Marion Ave. | 151 |
| | Just upstream of Owens St. | 153 |
| | Approximately 150 feet downstream of West Ave. | 159 |
| Jones Creek | Approximately 100 feet upstream of North Main St. | 150 |
| | Approximately 100 feet upstream of Evergreen St. | 156 |
| | Just downstream of Mississippi State Highway 13. | 165 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-156 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4811]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Town of Crenshaw, Panola and Quitman Counties, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Crenshaw, Panola and Quitman Counties, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Crenshaw, Mississippi. Send comments to: Mayor Joe George or Mr. H. D. Goodnight, Alderman, P.O. Box 190, Crensaw, Mississippi 38621.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Crenshaw, Panola and Quitman Counties, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Fowler Creek | Approximately 300 feet downstream of the Illinois Central Gulf Railroad. | 190 |
| | Intersection of Moon Ave. and McDade St. | 192 |
| | Intersection of South Ave. and McDade St. | 192 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Depatment of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-157 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4812]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for the Town of Jonestone, Coahoma County, Miss.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Jonestown, Coahoma County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Jonestown, Mississippi. Send comments to: Mayor James Shanks or Ms. Ruby Armstrong, Town Bookkeeper, Town Hall, P.O. Box 110, Jonestown, Mississippi 38639.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Jonestown, Coahoma County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Moore Bayou | Washington Ave. (extended). | 171 |
| | Mosley St. (extended) | 171 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-158 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4813]

**NATIONAL FLOOD INSURANCE PROGRAM**

**Proposed Flood Elevation Determination for the Unincorporated Areas of Marion County, Miss.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Marion County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Marion County Courthouse, Columbia, Mississippi. Send comments to: Mr. Frank Fortenberry, President, Marion County Board of Supervisors, or Mr. John Anderson, County Engineer, P.O. Box 294, Columbia, Mississippi 39429.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Marion County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation, in feet, national geodetic vertical datum |
|---|---|---|
| Pearl River | Just downstream of U.S. Highway 98. | 144 |
| | Just downstream of Illinois Central Gulf Railroad. | 145 |
| Pearl River | Approximately 200 feet upstream of Mississippi State Highway 35. | 150 |
| Upper Little Creek | Approximately 200 feet upstream of Mississippi State Highway 13. | 144 |
| Balls Mill Creek | Approximately 200 feet downstream of Mississippi State Highway 13. | 144 |
| | Approximately 200 feet upstream of southernmost crossing of U.S. Highway 98. | 169 |
| Silver Creek | Approximately 200 feet upstream of Illinois Central Gulf Railroad. | 157 |
| | Approxmiately 200 feet upstream of Mississippi State Highway 58. | 163 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-159 Filed 1-4-79; 8:45 am]

## [4210-01-M]

### [24 CFR Part 1917]

[Docket No. FI-4814]

### NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Town of Satartia, Yazoo County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Satartia, Yazoo County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Satartia, Mississippi 39162. Send comments to: Mayor Beverly Ragland, Town Hall, Satartia, Mississippi 39162.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Satartia, Yazoo County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic verical datum |
|---|---|---|
| Yazoo River | Just downstream of Mississippi Highway 433. | 106 |
| | Confluence of Satartia Creek. | 106 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ
*Federal Insurance Administrator.*

[FR Doc. 79-160 Filed 1-4-79; 8:45 am]

## [4210-01-M]

### [24 CFR Part 1917]

[Docket No. FI-4815]

### NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Unincorporated Areas of Yazoo County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in

the unincorporated areas of Yazoo County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Flood Inspector's Office, Yazoo County Courthouse, 211 East Broadway, Yazoo City, Mississippi 39194. Send comments to: Mr. Sam Fisher, President, Yazoo County Board of Supervisors, or Mr. Griffin Norquist, County Attorney, Yazoo County Courthouse, 211 East Broadway, Yazoo City, Mississippi 39194.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Yazoo County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Piney Creek ..... | Confluence of Piney Creek Tributary. | 113 |
| | Just upstream of U.S. Highway 49E Bridge. | 121 |
| Piney Creek ..... | Just upstream of U.S. Highway 49E Bridge. | 115 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-161 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4816]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Town of Greenfield, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Greenfield, Hillborough County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Office, Greenfield, New Hampshire. Send comments to: Mr. Scott Carbee, Chairman, Board of Selectmen, Town of Greenfield, Box 224, Greenfield, New Hampshire 03047.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Greenfield, New Hampshire, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Contoocook River. | Boston and Maine Railroad Bridge—50 feet*. | 685 |
| | Forest Road Bridge—30 feet*. | 685 |
| | Cavender Road Bridge—30 feet*. | 689 |
| Otter Brook ..... | Slip Road Culvert—20 feet*. | 813 |
| | Boston and Maine Railroad—20 feet**. | 814 |
| Stony Brook..... | Small Dam—50 feet*..... | 826 |
| | School House Rd. Bridge—20 feet*. | 834 |
| | Boston & Maine Railroad Culvert—20 feet**. | 835 |
| | Boston & Maine Railroad Culvert—20 feet*. | 840 |
| | Russel Station Rd. Culvert—40 feet*. | 840 |
| | Boston & Maine Railroad—20 feet**. | 840 |

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Otter Lake Brook.. | State Route 136 Culvert—20 feet*. | 801 |
| | Swamp Rd. Culvert—20 feet*. | 802 |
| | Forest Rd. Culvert—20 feet.* | 806 |
| | Footbridge approximately 0.26 mile upstream from Forest Rd.—20 feet*. | 807 |
| Tributary B..... | Forest Road Culvert—40 feet*. | 821 |
| | Miner Road Bridge—30 feet*. | 861 |

* Upstream of centerline
** Downstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

NOTE.—In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-162 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4817]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Town of Pine Knoll Shores, Carteret County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Pine Knoll Shores, Carteret County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Pine Knoll Boulevard, Pine Knoll Shores, North Carolina. Send comments to: Mayor H. K. Haller or Commissioner Arthur Browne, P.O. Box 757, Atlantic Beach, North Carolina 28512.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Pine Knoll Shores, Carteret County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Atlantic Ocean ..... | Pine Knoll Blvd. (Extended). | 11 |
| | Juniper Rd. (Extended). | 11 |
| Bogue Sound..... | Arborvitae Court (Extended). | 7 |
| | Juniper Rd. (Extended). | 7 |
| | West of Mimosa Blvd. Bridge. | 7 |
| | Intersection of Sycamore Dr. and Beechwood Dr. | 7 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-163 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4818]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Town of Boynton, Muskogee County, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Boynton, Muskogee County, Oklahoma. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, P.O. Box 266, Boynton, Oklahoma 74422. Send comments to: Mayor Glen Myers or Ms. Clara Walker, Town

Clerk, Town Hall, P.O. Box 266, Boynton, Oklahoma 74422.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872..

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Boynton, Muskogee County, Oklahoma, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Mosquito Creek..... | Just downstream of Sixth St. | 607 |
| | Just upstream of Kenefick Ave. | 612 |
| | Just upstream of Buckner Ave. | 614 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-164 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4819]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Town of Haskell, Muskogee County, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Haskell, Muskogee County, Oklahoma.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, P.O. Box 425, Haskell, Oklahoma.

Send comments to: Mayor William Polk or Mr. Dean Beene, Town Superintendent, City Hall, P.O. Box 425, Haskell, Oklahoma 74436.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Haskell, Muskogee County, Oklahoma, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Haskell Creek..... | Just upstream of Osage Ave. | 564 |
| | Just upstream of Elm St | 570 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-165 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4129]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Township of Birmingham, Delaware County, Pa.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on May 25, 1978, at 43 FR 22401 in the FEDERAL REGISTER, and in the *Delaware County Daily Times* on March 1 and 2, 1978, describing Heyburn Road listed under Harvey Run in Birmingham as being 211 feet downstream,

should be corrected to read 211 feet upstream.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMINEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-166 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4820]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determination for the Borough of Catasauqua, Lehigh County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Catasauqua, Lehigh County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Catasauqua, Pennsylvania. Send comments to: Honorable Richard E. Dormblaster, Mayor of Catasauqua, 118 Bridge Street, Catasauqua, Pennsylvania 18032.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Catasauqua, Lehigh County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Lehigh River | Confluence of Catasauqua Creek. | 271 |
| | Race St | 271 |
| | Abandoned Railroad | 275 |
| | Pine St | 276 |
| Catasauqua Creek. | Confluence with Lehigh River. | 271 |
| | Conrail Bridge | 272 |
| | Lehigh River Canal | 276 |
| | Confluence of Tributary No. 1 to Catasauqua Creek. | 288 |
| | Wood St | 293 |
| | Church St | 295 |
| | Walnut St | 303 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-167 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4821]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determination for the Borough of Jonestown, Lebanon County, Pa.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Jonestown, Lebanon County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the lobby of the Jonestown Bank, Market Street, Jonestown, Pennsylvania. Send comments to: Honorable David Heilman, Mayor of Jonestown, 237 West Market Street, Jonestown, Pennsylvania 17038.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood eleva-

tions for the Borough of Jonestown, Lebanon County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Swatara Creek..... | Upstream Corporate Limits. | 413 |
| | Market St. (Upstream)... | 412 |
| | Downstream Corporate Limits. | 410 |
| Little Swatara Creek. | Upstream Corporate Limits. | 412 |
| | South Lancaster St. (Upstream). | 412 |
| | Confluence with Swatara Creek. | 410 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-168 Filed 1-4-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4822]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Township of Union, Lebanon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Union, Lebanon County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Lickdale, Pennsylvania. Send comments to: Mr. Leroy W. Adams, Chairman of the Board of Union, R.D. 2, Box 324, Jonestown, Pennsylvania 17038.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Union, Lebanon County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Swatara Creek..... | Market St. (Upstream)... | 412 |
| | U.S. Route 22 (Upstream). | 413 |
| | Confluence of Forge Creek. | 425 |
| | State Route 343 (Upstream). | 426 |
| | Legislative Route 38049 (Upstream). | 436 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-169 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4823]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the Town of South Congaree, Lexington County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of South Congaree, Lexington County, South Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is

required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the South Congaree Town Hall, 1633 Verry Road, West Columbia, South Carolina 29169. Send comments to: Mayor Millard Murrah or Councilman Dan Gensamer, South Congaree Town Hall, 1633 Verry Road, West Columbia, South Carolina 29169.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of South Congaree, Lexington County, South Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Congaree Creek..... | Just downstream of Pine St. (Route 168). | 160 |
| | Approximately 100 feet downstream of Main St. (Route 215). | 157 |
| First Creek..... | Approximately 300 feet upstream of Southern Railroad. | 166 |
| | Approximately 100 feet upstream of Ramblin Rd. | 164 |
| | Approximately 100 feet downstream of Ramblin Rd. | 159 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-170 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4824]

## NATIONAL FLOOD INSURANCE PROGRAM

### Proposed Flood Elevation Determination for the City of Ganado, Jackson County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Ganado, Jackson County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 208 West Putnam Street, Ganado, Texas 77962. Send comments to: Mayor Frances Strauss, City Hall, 208 West Putnam Street, P.O. Box 264, Ganado, Texas 77962.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Ganado, Jackson County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Devers Creek ..... | Approximately 100 feet downstream of Sutherland St. | 53 |
| | Approximately 150 feet downstream of Menefee St. | 55 |
| Devers Creek Tributary No.1. | Approximately 200 feet downstream of Fifth St. | 54 |
| Mustang Creek Tributary No. 9. | Just downstream of Southern Pacific Railroad. | 63 |
| | Approximately 200 feet upstream of U.S. Highway 59. | 64 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-171 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4825]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determination for the City of San Leanna, Travis County, Tex.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of San Leanna, Travis County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Secretary's Office, P.O. Box 86, Manchaca, Texas 78648. Send comments to: Mayor Don Rauschuber, Route 5, Box 132V, Austin, Texas 78704 or Mr. Jack Wilson, City Secretary, P.O. Box 86, Manchaca, Texas 78648.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of San Leanna, Travis County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| Slaughter Creek.... | Eastern Corporate Limits. | 621 |
| | Western Corporate Limits. | 640 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-172 Filed 1-4-79; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4826]

NATIONAL FLOOD INSURANCE PROGRAM

**Proposed Flood Elevation Determination for the Town of Sunnyvale, Dallas County, Tex.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Sunnyvale, Dallas County, Texas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Long Creek Road, Sunnyvale, Texas 75182. Send comments to: Mayor Robert Vineyard or Ms. Doris Padgett, City Secretary, Town Hall, Long Creek Road, Sunnyvale, Texas 75182.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Sunnyvale, Dallas County, Texas, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

| Source of flooding | Location | Elevation in feet, national geodetic vertical datum |
|---|---|---|
| North Mesquite Creek. | Just upstream of the Texas & Pacific Railroad. | 440 |
| Stream 2M1 | Just upstream of I-20 | 420 |
| Long Creek | Approximately 200 feet upstream of Long Creek Rd. | 428 |
| | Just upstream of Collins Rd. | 448 |
| | Just upstream of Jobson Rd. | 492 |
| Duck Creek | Just upstream of East Fork Rd. | 414 |
| | Just upstream of Town East Blvd. | 425 |

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued: December 7, 1978.

GLORIA M. JIMENEZ,
*Federal Insurance Administrator.*

[FR Doc. 79-173 Filed 1-4-79; 8:45 am]

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[4830-01-M]

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[26 CFR Part 1]

[LR-233-78]

### INDUSTRIAL DEVELOPMENT BONDS; DEFINITION OF AN AIRPORT

### Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to industrial development bonds. The regulations are intended to clarify the treatment of bonds issued to finance certain facilities related to an airport. They affect purchasers and governmental issuers of tax-exempt bonds.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 7, 1979. The proposed regulations apply to bonds sold after 5:00 p.m. EST on December 29, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

John Coulter of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-4473, not a toll-free call.

SUPPLEMENTARY INFORMATION:

#### BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103 of the Internal Revenue Code of 1954. These amendments are proposed to clarify the regulations and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

#### INDUSTRIAL DEVELOPMENT BONDS FOR AIRPORTS

Section 103(a)(1) provides that gross income does not include interest on obligations of a State or local government. Under section 103(b), however, the general rule of section 103(a)(1) does not apply to interest on an issue of industrial development bonds unless the proceeds of such an issue are used to provide airports or for other purposes specified in section 103 (b) (4), (5), and (6) and certain other requirements are satisfied.

Section 1.103-8(e)(2)(i) of the regulations defines the term airport for purposes of determining whether the proceeds of an issue are used to provide an airport. The proposed regulations would modify the definition of an airport. Among other things, they would specify that with respect to bonds sold after 5:00 p.m. EST on December 29, 1978, an airport does not include office space of a computer facility which relates generally to the needs of an airline and not solely to the functions of the airline at the particular airport where the office space or computer facility is located.

#### COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

#### DRAFTING INFORMATION

The principal author of these proposed regulations is David Dolan of the Legislation and Regulations Division of the Office of Chief Counsel, Internation Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

*Proposed amendments to the regulations*

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph (e)(2) of § 1.103-8 is amended by revising the first sentence of subdivision (i), by redesignating subdivisions (ii) and (iii) as subdivisions (iii) and (iv), respectively, and by adding a new subdivision (ii). Subdivisions (i) and (ii) as amended read as follows:

**§ 1.103-8 Interest on bonds to finance certain exempt facilities.**

* * * * *

(e) *Certain transportation facilities.* * * *

(2) *Definitions.* * * *

(i) With respect to bonds sold at or before 5:00 p.m. EST on December 29, 1978, an airport includes service accommodations for the public such as terminals, retail stores in such terminals, runways, hangars, loading facilities, repair shops, parking areas, and facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to the airport, such as facilities for the preparation of in-flight meals, restaurants and accommodations for temporary of overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies, and airlines. * * *

(ii) With respect to bonds sold after 5:00 p.m. EST on December 29, 1978—

(A) An airport includes facilities which are directly related and essential to—

(*1*) Servicing aircraft or enabling aircraft to take off and land, or

(*2*) Transferring passengers or cargo to or from aircraft.

A facility does not satisfy either of the foregoing requirements if the facility need not be located where aircraft take off and land in order to serve its function. Examples of facilities which satisfy those requirements are terminals, runways, hangars, loading facilities, repair shops, and parking areas.

(B) Under paragraph (a)(3) of this section, an airport includes facilities other than those described in paragraph (e)(2)(ii)(A) only if they are functionally related and subordinate to an airport as defined in paragraph (e)(2)(ii)(A). A facility (or part thereof) is not functionally related and subordinate to an airport if the facility (or part thereof)—

(*1*) Is not needed for the public convenience and necessity at the airport,

(*2*) Is not of a character and size commensurate with the character and size of the airport where the facility is located,

(*3*) Need not be located at, or adjacent to, that airport in order for the facility to serve its function, or

(*4*) Is functionally related to more than one airport.

Examples of facilities which are functionally related and subordinate to an airport are facilities for the preparation of in-flight meals, restaurants, retail stores located in terminals, and accommodations for temporary or overnight use by passengers.

(C) As an illustration of the rules of paragraph (e)(2)(ii) (A) and (B), an office building (or office space within a building) or a computer facility, either of which serves a systemwide or regional function of an airline, is not considered part of an airport, since that facility is not described in either paragraph (e)(2)(ii) (A) or (B). However, a maintenance and overhaul facility which services aircraft is considered part of an airport under paragraph (e)(2)(ii)(A) since that facility is directly related and essential to servicing aircraft and must be located where aircraft take off and land in order to serve its function.

(D) The term "airport" does not include a landing strip which, by reason of a formal or informal agreement, or by reason of geographic location, will not be available for general public use.

* * * * *

JEROME KURTZ,
*Commissioner of Internal Revenue.*

DECEMBER 29, 1978.

**§ 1.103-8 Interest on bonds to finance certain exempt facilities.**

* * * * *

(e) *Certain transportation facilities*—(1) *General rule.* * * *

(2) *Definitions.* For purposes of section 103(c)(4)(D) and this paragraph—

(i) With respect to bonds sold at or before 5:00 p.m. EST on December 29, 1978, an airport includes service accommodations for the public such as terminals, retail stores in such terminals, runways, hangars, loading facilities, repair shops, parking areas, and facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to the airport, such as facilities for the preparation of in-flight meals, restaurants and accommodations for temporary or overnight use by passengers, and other facilities functionally related to the needs or convenience of passengers, shipping companies, and airlines. The term "airport" does not include a landing strip which, by reason of a formal or informal agreement, or by reason of geographic location, will not be available for general public use.

(ii) With respect to bonds sold after 5:00 p.m. EST on December 29, 1978—

(A) An airport includes facilities which are directly related and essential to—

(*1*) Servicing aircraft or enabling aircraft to take off and land, or

(*2*) Transferring passengers or cargo to or from aircraft. A facility does not satisfy either of the foregoing requirements if the facility need not be located where aircraft take off and land in order to serve its function. Examples of facilities which satisfy those requirements are terminals, runways, hangars, loading facilities, repair shops, and parking areas.

(B) Under paragraph (a) (3) of this section, an airport includes facilities other than those described in paragraph (e) (2) (ii) (A) only if they are functionally related and subordinate to an airport as defined in paragraph (e) (2) (ii) (A). A facility (or part thereof) is not functionally related and subordinate to an airport if the facility (or part thereof)—

(*1*) Is not needed for the public convenience and necessity at the airport,

(*2*) Is not of a character and size commensurate with the character and size of the airport where the facility is located,

(*3*) Need not be located at, or adjacent to, that airport in order for the facility to serve its function, or

(*4*) Is functionally related to more than one airport.

Examples of facilities which are functionally related and subordinate to an airport are facilities for the preparation of in-flight meals, restaurants, retail stores located in terminals, and accommodations for temporary or overnight use by passengers.

(C) As an illustration of the rules of paragraph (e)(2)(ii) (A) and (B), an office building (or office space within a building) or a computer facility, either of which serves a systemwide or regional function of an airline, is not considered part of an airport, since that facility is not described in either paragraph (e)(2)(ii) (A) or (B). However, a maintenance and overhaul facility which services aircraft is considered part of an airport under paragraph (e)(2)(ii)(A) since that facility is directly related and essential to servicing aircraft and must be located where aircraft take off and land in order to serve its function.

(D) The term "airport" does not include a landing strip which, by reason of a formal or informal agreement, or by reason of geographic location, will not be available for general public use.

(iii) A dock or wharf includes property which, under paragraph (a)(3) of this section, is functionally related and subordinate to a dock or wharf such as the structure alongside which a vessel docks, the equipment needed to receive and to discharge cargo and passengers from the vessel, such as cranes and conveyors, related storage, handling, office, and passenger areas, and similar facilities.

(iv) A mass commuting facility includes real property together with improvements and personal property used therein, such as machinery, equipment, and furniture, serving the general public commuting on a day-to-day basis by bus, subway, rail, ferry, or other conveyance which moves over prescribed routes. Such property also includes terminals and facilities which, under paragraph (a)(3) of this section, are functionally related and subordinate to the mass commuting facility, such as parking garages, car barns, and repair shops. Use of mass commuting facilities by noncommuters in common with commuters is immaterial. Thus, a terminal leased to a common carrier bus line which serves both commuters and long distance travelers would qualify as an exempt facility.

* * * * *

[FR Doc. 78-36487 Filed 12-29-78; 4:24 p.m.

[4810-25-M]

Office of the Secretary

[31 CFR Part 1]

PRIVACY ACT 1974

**Proposed Notice Exempting a System of Records From Certain Requirements of the Privacy Act of 1974**

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice of proposed exemption.

SUMMARY: The Office of the Inspector General of the Office of the Secretary of the Treasury Department proposes to exempt the system of records entitled "General Allegations and Investigative Records System" [1] in accordance with sections (j) and (k) of the Privacy Act of 1974, 5 U.S.C. 552a. The purpose of the exemptions is to maintain confidentiality of data obtained from various sources that may become criminal or non-criminal investigative material for law enforcement use or for use in integrity investigations.

DATES: Comments must be received on or before February 5, 1979.

ADDRESSES: Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT:

Mrs. Carol Jolliffe, Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220, 202-566-6900.

It is proposed to amend § 1.36 of Title 31 of the CFR by adding the following material immediately preceding the heading "Director of Practice":

* * * * *

OFFICE OF THE INSPECTOR GENERAL

*Notice exempting a system of records from the disclosure requirements of the Privacy Act of 1974*

(a) *In general.* The Office of the Inspector General, Department of the Treasury exempts the system of records entitled, "General Allegations and Investigative Records" from certain provisions of the Privacy Act of 1974. The purpose of the exemption is to maintain confidentiality of data obtained from various sources that may ultimately accomplish a statutory or executively ordered purpose.

(b) *Authority:* The authority to issue exemptions is vested in the Office of the Inspector General, as a constituent unit of the Treasury Department by 31 CFR 1.20.

(c) *Exemptions under 5 U.S.C. 552a(j)(2):* (1) Under 5 U.S.C. 552a(j)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the agency or component that maintains the system performs as its principal function any activities pertaining to the enforcement of criminal laws. The Office of the Inspector General is authorized under Treasury Department Order No. 256 to initiate, organize, direct, and control investigations of any allegations of illegal acts, violations, and any other misconduct concerning any official or employee of any Treasury Office or Bureau.

(2) To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the above named system of records, then the exemption under 5 U.S.C. 552a(k)(2) relating to investigatory material compiled for law enforcement purposes is claimed for this system.

(3) The provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(j)(2) are as follows:

5 U.S.C. 552a(c)(3) and (4)
5 U.S.C. 552a(d)(1), (2), (3), (4)
5 U.S.C. 552a(e)(1)(2) and (3)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(e)(5) and (8)
5 U.S.C. 552a(f)
5 U.S.C. 552a(g)

(d) *Exemptions under 5 U.S.C. 552a(k)(2):* (1) Under 5 U.S.C. 552a(k)(2), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled for law enforcement purposes.

(2) to the extent that information contained in the above named system has as its principal purpose the enforcement of criminal laws, the exemption for such information under 5 U.S.C. 552a(j)(2) is claimed.

(3) Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I)
5 U.S.C. 552a(f)

(e) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2):* (1) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at their request. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation to the existence of the investigation and that such persons are subjects of that investigation. Since release of such information to subjects of an investigation would provide the subjects with significant information concerning the nature of the investigation, it could result in the altering or destruction of documentary evidence, improper influencing of witnesses, and other activities that could impede or compromise the investigation.

(2) 5 U.S.C. 552a(c)(4), (d)(1), (2), (3), and (4), (e)(4)(G) and (H), (f) and (g) relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; the agency procedures relating to access to records and the contest of information contained in such records; and the civil remedies available to the individual in the event of adverse determinations by an agency concerning access to or amendment of information contained in record systems. This system is exempt from the foregoing provisions for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to an investigative file could interfere with investigative and enforcement proceedings; co-defendants of a right to a fair trial; constitute an unwarranted invasion of the personal privacy of others; disclose the identity of confidential sources and reveal confidential information supplied by these sources; and disclose investigative techniques and procedures.

(3) 5 U.S.C. 552a(e)(4)(I) requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of promises of anonymity and confidentiality. This would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from the foregoing is needed:

(A) Because it is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

(B) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be de-

[1] See the "Notices" section of this issue of the FEDERAL REGISTER for the text of the system.

termined to be unnecessary. It is only after the information is evaluated that the relevance and necessity of such information can be established.

(C) In any investigation the Inspector General may obtain information concerning the violations of laws other than those within the scope of his jurisdiction. In the interest of effective law enforcement, the Inspector General should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(D) In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relate to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privilege under Federal programs. The application of the provision would impair investigations of illegal acts, violations of the rules of conduct, merit system and any other misconduct for the following reasons:

(A) In certain instances the subject of an investigation cannot be required to supply information to investigators. In those instances, information relating to a subject's illegal acts, violations of rules of conduct, or any other misconduct, etc., must be obtained from other sources;

(B) Most information collected about an individual under investigation is obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his activities.

(C) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities to avoid apprehension.

(D) In any investigation it is necessary to obtain evidence from a variety of sources other than the subject of the investigation in order to verify the evidence necessary for successful litigation.

(6) 5 U.S.C. 552a(e)(3) requires that an agency must inform the subject of an investigation who is asked to supply information of:

(A) the authority under which the information is sought and whether disclosure of the information is mandatory or voluntary,

(B) the purposes for which the information is intended to be used,

(C) the routine uses which may be made of the information, and

(D) the effects on the subject, if any of not providing the requested information. The reasons for exempting this system of records from the foregoing provision are as follows:

(i) The disclosure to the subject of the investigation as stated in (B) above would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(ii) If the subject were informed of the information required by this provision, it could seriously interfere with undercover activities by requiring disclosure of undercover agents identity and impairing their safety, as well as impairing the successful conclusion of the investigation.

(iii) Individuals may be contacted during preliminary information gathering in investigations authorized by Treasury Department Order No. 256 before any individual is indentified as the subject of an investigation. Informing the individual of the matters required by this provision would hinder or adversely affect any present or subsequent investigations.

(7) 5 U.S.C. 552a(e)(5) requires that records be maintained with such accuracy, relevance, timeliness, and completeness as is reasonable necessary to assure fairness to the individual in making any determination about an individual. Since the law defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation it is not possible to determine this prior to collection of the information. Facts are first gathered and then placed into a logical order which objectively proves or disproves criminal behavior on the part of the suspect. Material which may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(8) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. The notice requirement of this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(f) *Exempt information included in another system.* Any information from a system of records for which an exemption is claimed under 5 U.S.C. 552a(j) or (k) which also is included in another system of records retains the same exempt status as in the system for which an exemption is claimed.

* * * * *

Dated: December 26, 1978.

W. J. McDONALD,
*Acting Assistant Secretary (Administration).*

[FR Doc. 79-639 Filed 1-4-79; 8:45 am]

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[6560-01-M]

## ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[Docket No. DCO-78-17 FRL 1034-8]

### STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

**Proposed Delayed Compliance Order for Fiberfine of Memphis, Memphis, Tenn.**

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior FEDERAL REGISTER notice proposing a Delayed Compliance Order for Fiberfine of Memphis at Memphis, Tennessee. This action is being taken because Fiberfine of Memphis has not met the provisions of the proposed order.

DATE: This withdrawal is effective December 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Bert Cole, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Phone: 404/881-4298.

SUPPLEMENTARY INFORMATION: A FEDERAL REGISTER notice published at 33259 FR Volume 43, Number 147, July 31, 1978, solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by EPA to Fiberfine of Memphis at Memphis, Tennessee. Fiberfine of Memphis has subsequently violated the final compliance date contained in the Order.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER 33259 FR Volume 43,

Number 147 on July 31, 1978, entitled "Proposed Delayed Compliance Order for Fiberfine of Memphis, Memphis, Tennessee," is hereby withdrawn.

Dated: December 27, 1978.

ASA B. FOSTER,
*Acting Regional Administrator, Region IV.*

[FR Doc. 79-393 Filed 1-4-79; 8:45 am]

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[6560-01-M]

[40 CFR Part 65]

[Amendment to FRL 1034-2]

## DELAYED COMPLIANCE ORDERS

**Proposed Approval of Five Administrative Orders Issued by the State of Washington, Department of Ecology to Boise Cascade Corp. (2), Nanome Aggregates, Inc., Vaagen Brothers Lumber Co., Matney Lumber Co.**

AGENCY: Environmental Protection Agency.

ACTION: Amendment to proposed rule.

SUMMARY: Four Orders were inadvertently left off the publication of FRL 1020-8 in the Wednesday, December 6, 1978 issue at pages 57162-57163. The Orders for Boise Cascade (2), Nanome Aggregates, Inc. and Vaagen Brothers Lumber Company will follow.

DATE: The comment period is extended to February 5, 1979.

Dated: December 22, 1978.

DONALD P. DUBOIS,
*Regional Administrator, Region 10.*

DEPARTMENT OF ECOLOGY

In the matter of the compliance by Boise Cascade Corp. (Kettle Falls Plywood Plant) with Chapter 70.94 RCW and the Rules and Regulations of the Department of Ecology.

Delayed Compliance Order; Docket No. DE 78-459.

To: Mr. J. Garrett Andrew, Environmental Engineer, Boise Cascade Corp., P.O. Box 310, Kettle Falls, WA 99141.

Boise Cascade Corp. operates a hog fuel boiler and veneer drier at their plywood plant at Kettle Falls, Washington. Emissions from the boiler and veneer drier do not comply with provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Boise Cascade Corp. for the correction of this problem. Boise Cascade Corp. will install a new fluid bed combuster and derate the existing boiler. They will also eliminate the use of their Energex system.

In accordance with the provisions of 173-400-150 WAC and as provided in Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following Order:

FINDINGS

1. The present hog fuel boiler is capable of complying with emission standards, Washington Administrative Code (WAC) 18-04-040 recodified as 173-400-040 (part of S.I.P.), but is currently not in compliance because it is being used to incinerate fuel to balance mill supply.

2. The present veneer drier is unable to comply with emission standards, Washington Administrative Code WAC 18-04-040 recodified as 173-400-040.

3. Immediate derating of the boiler, to bring it into compliance, would create a tremendous wood waste disposal problem. Land disposal could result in spontaneous combustion and/or water pollution problems.

4. The proposed equipment is the best practicable and will provide for continuous compliance, WAC 18-04-040 recodified as 173-400-040.

5. The proposed schedule is as expeditious as practicable.

6. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

ORDER

*Therefore, it is ordered* that the methods and equipment as described in submitted plans, specifications, schedules, and other correspondence be installed according to the following instructions:

1. Complete engineering and begin construction by August 31, 1978.

2. Complete construction by June 30, 1979.

3. Derate boiler to bring it into compliance by July 1, 1979.

4. The boiler and fluid bed combuster shall be in compliance by July 1, 1979.

Boise Cascade Corporation shall comply with the following interim requirements to reduce present emissions:

1. Maintain and operate boiler to balance present fuel supply. No increase in production that will result in an increase of fuel will occur.

2. No open burning will be allowed at mill site except with the use of a certified alternate.

3. All precautions should be taken to reduce fugitive dust emissions. This includes, but is not limited to:

a. Proper disposition of ash from boiler.

b. Reduced traffic speed at sawmill and in log yard.

c. Road pallative should be used under extreme dry conditions.

Boise Cascade Corp. shall comply with the following reporting requirements:

1. No later than five (5) working days after the completion of each step in the schedule, the Department of Ecology, Eastern Regional Office, will be notified in writing by Boise Cascade Corp.

2. All notification or reports will be submitted to: Department of Ecology, Eastern Regional Office, E. 103 Indiana Avenue, Spokane, WA 99207. Attn: Carl J. Nuechterlein.

3. Source test will be completed as required by Notice of Construction on new source. Interim monitoring is not required. A source test will also occur after the present boiler is derated to assure compliance.

Boise Cascade Corporation is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay non-compliance penalties as provided for in RCW 70.94.431 and as stated in Sec. 120 of the Federal Clean Air Act.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

Dated ast Olympia, Washington this 24th day of October 1978.

BRUCE A. CAMERON,
*Assistant Director, Department of Ecology, State of Washington.*

DEPARTMENT OF ECOLOGY

In the matter of the compliance by Boise Cascade Corp. (Kettle Falls Lumber Company) with Chapter 70.94 RCW and the Rules and Regulations of the Department of Ecology.

Delayed Compliance Order; Docket No. DE 78-452.

To: Mr. J. Garrett Andrew, Environmental Engineer, Boise Cascade Corp., P.O. Box 310, Kettle Falls, WA 99141.

Boise Cascade Corp. operates a wigwam burner at their sawmill at Kettle Falls, Washington. Emissions from the burner do not comply with provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Boise Cascade Corp. for the correction of this problem. Boise Cascade Corp. will install a new wood fired boiler and eliminate the use of the wigwam burner.

In accordance with provisions of Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following order:

FINDINGS

1. The present wigwam burner is unable to comply with emission standards, Washington Administrative Code (WAC) 18-04-040 recodified as 173-400-040 (part of S.I.P.).

2. The proposed equipment is the best practicable and will provide for continuous compliance with WAC 18-04-040 recodified as 173-400-040.

3. The proposed schedule is as expeditious as practicable.

4. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

RCW 70.94.332 reads in part: Whenever the department has reason to believe that any provision of this chapter or any rule or regulation adopted thereunder relating to the control or prevention of air pollution has been violated it may cause written notice to be served upon the alleged violator or violators and may include an order that necessary corrective action be taken within a reasonable time.

In view of the foregoing and in accordance with the provisions of RCW 70.94.332:

*It is ordered* that Boise Cascade Corp. (Kettle Falls Lumber Company) shall, upon receipt of this Order, take appropriate action in accordance with the following instructions:

The methods and equipment as described in submitted plans, specifications, schedules, and other correspondence be installed according to the following schedule:

1. Complete engineering and begin construction by August 31, 1978.
2. Complete construction by June 30, 1979.
3. Discontinue use of wigwam burner by July 1, 1979.
4. Source in compliance by July 1, 1979.

Boise Cascade Corp. shall comply with the following interim requirements to reduce present emissions:

1. Maintain and operate wigwam burner with recognized good practice. This includes regular cleaning and repair of underfire grates. Underfire air blowers should be checked for proper operation weekly. Overfire air vents should be maintained in operating condition. Shell condition should be checked weekly and leaks fixed when found.
2. All precautions should be taken to reduce fugitive dust emissions. This includes, but is not limited to:

a. Proper disposition of ash from burner;
b. Reduced traffic speed at sawmill and in log yard;
c. Road pallative should be used under extreme dry conditions.

Boise Cascade Corp. shall comply with the following reporting requirements:

1. No later than five (5) working days after the completion of each step in the schedule, the Department of Ecology, Eastern Regional Office, will be notified in writing by Boise Cascade Corp.
2. All notification or reports will be submitted to: Department of Ecology, Eastern Regional Office, E. 103 Indiana Avenue, Spokane, WA 99207. Attn: Carl J. Nuechterlein.
3. Source test will be completed as required by Notice of Construction on new source. Interim monitoring is not required.

Boise Cascade Corp. is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay noncompliance penalties as stated in Sec. 120 of the Federal Clean Air Act.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

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

BRUCE A. CAMERON,
*Assistant Director, Department of Ecology, State of Washington.*

DEPARTMENT OF ECOLOGY

In the matter of the compliance by Nanome Aggregates, Inc. with Chapter 70.94 RCW and the Rules and Regulations of the Department of Ecology

Delayed Compliance Order; Docket No. DE 78-442.

To: Mr. Warren Martin, Manager-Owner, Nanome Aggregates, Inc., P.O. Box 296, Valley, WA 99181.

Nanome Aggregates, Inc. operates a limestone crushing and sacking operation in Valley, Washington. Emissions from this facility do not comply with provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Nanome Aggregates, Inc. for the control of visible emissions from their crushing operation by the installation of a new baghouse, repair of duct work, and the addition of new collection points and hooding.

In accordance with provisions of Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following order:

FINDINGS

1. The present crushing facility is unable to comply with emission standards, Washington Administrative Code (WAC) 18-04-040 recodified as 173-400-040 (part of S.I.P.).
2. The proposed equipment and repairs are the best practicable and will provide for continuous compliance with WAC 18-04-040 recodified as 173-400-040.
3. The proposed schedule is as expeditious as practicable.
4. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

RCW 70.94.332 reads in part: Whenever the department has reason to believe that any provision of this chapter or any rule or regulation adopted thereunder relating to the control or prevention of air pollution has been violated it may cause written notice to be served upon the alleged violator or violators and may include an order that necessary corrective action be taken within a reasonable time.

In view of the foregoing and in accordance with the provisions of RCW 70.94.332:

*It is ordered* That Nanome Aggregates, Inc. shall, upon receipt of this Order, take appropriate action in accordance with the following instructions:

The methods and equipment as described in submitted plans, specifications, schedules, and other correspondence be installed according to the following schedule:

1. Construction of new baghouse by September 15, 1978.
2. Install and connect new baghouse by October 1, 1978.
3. Repair presently installed duct work by January 1, 1979.
4. Connection of additional collection points at:

a. Discharge from roller crusher by February 15, 1979;
b. Top of storage bin by February 15, 1979.

5. Install collection point and hooding at junction of return conveyor and primary conveyor by April 1, 1979.
6. Install additional hooding as required by June 1, 1979.
7. Source in compliance by July 1, 1979.

Nanome Aggregates, Inc. shall comply with the following interim requirements to reduce present emissions:

1. Maintain and operate the present baghouse and collection system with recognized good practice. This includes daily cleaning of baghouse and periodic inspection of collection points and duct work.
2. All precautions should be taken to reduce fugitive dust emissions from the plant location. This includes, but is not limited to:

a. Immediate cleanup of spills;
b. Reduced traffic speed in yard;
c. Road pallative should be used under extreme dry conditions.

Nanome Aggregates, Inc. shall comply with the following reporting requirements:

1. No latter than five (5) working days after the completion of each step in the schedule, the Department of Ecology, Eastern Regional Office, will be notified in writing by Nanome Aggregates, Inc.
2. All notification or reports will be submitted to: Department of Ecology, Eastern Regional Office, E. 103 Indiana Avenue, Spokane, WA 99207. Attn: Carl J. Nuechterlein.
3. Source test will be completed as required by Notice of Construction on new source. Interim monitoring is not required.

Nanome Aggregates, Inc. is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay noncompliance penalties as stated in Sec. 120 of the Federal Clean Air Act.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

Dated at Olympia, Washington this 21st day of September 1978.

BRUCE A. CAMERON,
*Assistant Director, Department of Ecology, State of Washington.*

DEPARTMENT OF ECOLOGY

In the matter of the compliance by Vaagen Brothers Lumber Company with Chapter 70.94 RCW and the Rules and Regulations of the Department of Ecology.

Delayed Compliance Order; Docket No. DE 78-440.

To: Mr. Duane Vaagen, Vaagen Brothers Lumber Co., P.O. Box 266, Colville, WA 99114.

Vaagen Brothers Lumber Co. operates a wigwam burner at their sawmill in Colville, Washington. Emissions from the burner do not comply with provisions of the Washington State Air Quality Implementation Plan (S.I.P.).

The Department of Ecology has reviewed plans and schedules submitted by Vaagen Brothers Lumber Co. for the correction of this problem. Vaagen Brothers Lumber Co. will install a new wood fired boiler and eliminate the use of the wigwam burner.

In accordance with provisions of Section 113(d) of the Federal Clean Air Act, as amended, and after public notice, the Department of Ecology makes the following findings and issues the following order:

FINDINGS

1. The present wigwam burner is unable to comply with emission standards, Washington Administrative Code (WAC) 18-04-040 recodified as 173-400-040 (part of S.I.P.).
2. The proposed equipment is the best practicable and will provide for continuous compliance, WAC 18-04-040 recodified as 173-400-040.
3. The proposed schedule is as expeditious as practicable.
4. The proposed interim requirements are reasonable and practicable. The methods of control will provide the best practicable system for emission reduction and will prevent imminent and substantial endangerment to the health of persons.

RCW 70.94.332 reads in part: Whenever the department has reason to believe that any provision of this chapter or any rule or regulation adopted thereunder relating to the control or prevention of air pollution has been violated it may cause written

notice to be served upon the alleged violator or violators and may include an order that necessary corrective action be taken within a reasonable time.

In view of the foregoing and in accordance with the provisions of RCW 70.94.332:

*It is ordered* that Vaagen Brothers Lumber Co. shall, upon receipt of this Order, take appropriate action in accordance with the following instructions:

The methods and equipment as described in submitted plans, specifications, schedules, and other correspondence be installed according to the following schedule:

1. Complete engineering and begin construction by August 1, 1978.

2. Complete construction of boiler by June 30, 1979.

3. Discontinue use of wigwam burner by July 1, 1979.

4. Source in compliance by July 1, 1979.

Vaagen Brothers Lumber Co. shall comply with the following interim requirements to reduce present emissions:

1. Maintain and operate wigwam burner with recognized good practice. This includes regular cleaning and repair of underfire grates. Underfire air blowers should be checked for proper operation weekly. Overfire air vents should be maintained in operating condition. Shell condition should be checked weekly and leaks fixed when found.

2. All precautions should be taken to reduce fugitive dust emissions. This includes, but is not limited to:

a. Proper disposition of ash from burner;

b. Reduced traffic speed at sawmill and in log yard;

c. Road pallative should be used under extreme dry conditions.

Vaagen Brothers Lumber Co. shall comply with the following reporting requirements:

1. No later than five (5) working days after the completion of each step in the schedule, the Department of Ecology, Eastern Regional Office, will be notified in writing by Vaagen Brothers Lumber Co.

2. All notification or reports will be submitted to: Department of Ecology, Eastern Regional Office, E. 103 Indiana Avenue, Spokane, WA 99207. Attn: Carl J. Nuechterlein.

3. Source test will be completed as required by Notice of Construction on new source. Interim monitoring is not required.

Vaagen Brothers Lumber Co. is hereby notified that failure to achieve final compliance by July 1, 1979 may result in a requirement to pay noncompliance penalties as stated in Section 120 of the Federal Clean Air Act.

Nothing in this order is to be construed in any way as to prevent enforcement and/or abatement action for any violation of any applicable law, rule, or regulation.

Dated at Olympia, Washington this 21st day of September 1978.

BRUCE A. CAMERON,
*Assistant Director, Department of Ecology, State of Washington.*

[FR Doc. 79-305 Filed 1-4-79; 8:45 am]

[6730-01-M]

## FEDERAL MARITIME COMMISSION

[46 CFR Part 510]

[Docket No. 78-53]

### INDEPENDENT OCEAN FREIGHT FORWARDER BIDS ON GOVERNMENT SHIPMENTS AT UNITED STATES PORTS

**Extension of Time To File Comments**

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of Time To File Comments.

SUMMARY: Time for filing comments on the notice of proposed rulemaking in this proceeding (43 FR 58098; December 12, 1978) is enlarged to and including January 19, 1979.

DATES: Comments on or before January 19, 1979.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: Counsel for General Services Administration (GSA) and National Customs Brokers and Forwarders Association of America, Inc. (Association) have requested enlargements of time of 21 and 30 days, respectively, to file comments in response to the notice of proposed rulemaking in this proceeding. GSA states that this proceeding directly affects its procurement practices. The Association cites the need to solicit the views of affiliated local associations which is hampered by the holidays. Both counsel cite the fact that the problems which the rule proposes to address are of many years standing.

The problems are long standing. It is for this reason that the Commission wishes to resolve them as speedily as possible. Nonetheless, a limited extension will be granted on the basis of the intervening holidays. Comments therefore, may be filed on or before January 19, 1979.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc. 79-431 Filed 1-4-79; 8:45 am]

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[6730-01-M]

[46 CFR Part 531]

[Docket No. 79-1]

### PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

**Modification of Requirements**

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: Part 531 of Title 46 CFR which contains the regulations governing the form and manner of filing tariffs by common carriers by water in the domestic commerce of the United States is proposed to be revised. The proposed changes are necessary in order to incorporate the provisions of Public Law 95-475, which amends the Intercoastal Shipping Act of 1933. The amendments will serve to bring Part 531 of Title 46 CFR into conformity with the newly amended provisions of the Intercoastal Shipping Act.

DATES: Comments due January 26, 1979.

ADDRESSES: Comments (original and fifteen copies) to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D. C. 20573, (202) 523-5725.

Notice is hereby given that the Federal Maritime Commission is considering the revision of Part 531 of Title 46 CFR, which contains the regulations governing the form and manner of filing tariffs by common carriers by water in the domestic commerce of the United States, in order to incorporate the provisions of Public Law 95-475. Part 531 implements the requirements of the Intercoastal Shipping Act, 1933, as amended.

On October 18, 1978, the Public Law 95-475 (H.R. 6503) amended the Intercoastal Shipping Act of 1933. The primary purposes of the amendment was to expedite the process by which the Commission reviews and takes final action on general rate increases or decreases in domestic offshore commerce.

The Commission has recognized the necessity of further revising Part 531 of Title 46 CFR to bring it into conformity with the newly amended provisions of the Intercoastal Shipping Act. Accordingly, the proposed changes and additions to be made are set forth below.

§ 531.2 (Amended).

The reference in § 531.2(c) which reads "(see § 531.2(u))" is proposed to be amended to read "(see § 531.2(w))."

The definitions in § 531.2 presently designated as paragraph (j) through (x), inclusive, are proposed to be redesignated paragraphs (l) through (z), inclusive.

Section 531.2 is proposed to be amended by incorporating the follow-

ing definitions to be designated paragraphs (j) (k):

* * * * *

(j) *General Decrease:* any change in rates, fares or charges which will (1) result in a decrease in not less than 50 percent of the total rate, fare, or charge items in the tariffs per trade of any carrier; and (2) directly result in a decrease in gross revenues of such carrier for the particular trade of not less than 3 percent.

(k) *General Increase:* any change rates, fares, or charges which will (1) result in an increase in not less than 50 percent of the total rate, fare, or charge items in the tariffs per trade of any carrier; and (2) directly result in an increase in gross revenues of such carrier for the particular trade of not less than 3 percent.

* * * * *

§ 531.6 (Amended).

The reference in § 531.6(m)(1) which reads "§ 531.1(o)" is proposed to be amended to read "§ 531.2(q)."

§ 531.10 (Amended).

Section 531.10 is proposed to be amended by:

(1) Revising the introductory sentence of paragraph (b) to read as follows:

* * * * *

(b) Amendments establishing new or initial rates, or changing rates, fares, charges, rules or other tariff provisions, which do not constitute a general increase or decrease in rates shall be filed and posted at least 30 days prior to their effective date; Provided that: * * *.

(2) Inserting the following new paragraph (c):

* * * * *

(c) Amendments changing rates, fares, charges, rules or other tariff provisions which constitute a general increase or decrease in rates, shall be filed and posted at least 60 days prior to their effective date. The following data shall be submitted simultaneously with the filing of general increases or decreases:

(1) Financial and operating data as required by Part 512 of the Commission's Rules; and

(2) All exhibits, workpapers, and statements of direct testimony as required by § 502.67 of the Commission's Rules.

* * * * *

(3) Redesignating paragraphs (c), (d), (e), and (f) as paragraphs (d), (e), (f), and (g).

§ 531.11 (Amended).

Section 531.11(g)(3) is proposed to be amended to read as follows:

(g) * * *.

(3) Publish, in the upper right-hand corner, an effective date which conforms with § 531.10 (b) and (c) of this part.

§ 531.13 (Amended).

Section 531.13(a) is proposed to be amended to read as follows:

(a) The Commission may suspend from use any rate, fare, charge, classification, regulation or practice for a period of up to 180 days beyond the time it would otherwise have lawfully taken effect;

* * * * *

The reference in § 531.13(c)(1) which reads "(see §§ 531.10(c) and 531.11(h)(iii))" is proposed to be amended to read "(see §§ 531.10(d) and 531.11(g)(2) (iii) and (iv))."

Therefore, it is ordered, That interested persons may participate in this rule making proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 26, 1979 an original and 15 copies of their views or arguments pertaining to the proposed amended rules. All suggestions for changes in the text as set out above should be accompanied by drafts of the language thought necessary to accomplish the desired change and by statements and arguments in support thereof. Inasmuch as the statutory amendments will become effective with January 16, 1979, hearings on this proposal are not anticipated.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc. 79-483 Filed 1-4-79; 8:45 am]

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[4910-06-M]

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### [49 CFR Part 215]

[Docket No. RSFC-6, Notice No. 1]

### FREIGHT CAR SAFETY STANDARDS

### Miscellaneous Proposed Revisions

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the rules containing Railroad Freight Car Safety Standards. The proposed amendments would update, consolidate, and clarify existing rules and would eliminate certain rules no longer considered necessary for safety. This action is taken by FRA in an effort to improve its safety regulatory program.

DATES: (1) Written Comments: Written comments must be received before March 14, 1979. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) Public Hearing: A public hearing will be held at 10:00 a.m. on March 7, 1979. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before March 2, 1978, by phone or by mail.

ADDRESSES: (1) Written Comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration (Trans Point Building), 2100 Second Street, SW., Washington D.C. 20590. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in room 4406 of the Trans Point Building at the above address.

(2) Public Hearing: A public hearing will be held in room 3201 of the Trans Point Building. Persons desiring to make oral statements at the hearing should notify the docket clerk by telephone (202-426-8836) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, at the above address.

FOR FURTHER INFORMATION CONTACT:

Principal Authors—Principal Program Person: Rolf Mowatt-Larssen, Office of Standards and Procedures, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-0924. Principal Attorney: Danvers E. Long, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-8836.

SUPPLEMENTARY INFORMATION:

BACKGROUND

REGULATORY REFORM

On March 23, 1978, the President issued Executive Order 12044. In that Order, he directed all Executive Agencies to adopt procedures to improve existing and future regulations. As a matter of policy, the Order requires that regulations be as simple and clear as possible, achieve legislative goals effectively and efficiently, and not impose unnecessary burdens. To achieve this policy objective, the order requires Agencies to address the fol-

lowing considerations, among others, when developing regulations: (1) The need for and purposes of the regulation must be clearly established; (2) An opportunity must be provided for early participation and comment by other Federal Agencies, State and local governments, businesses, organizations, and individual members of the public; (3) Meaningful alternatives must be considered and analyzed before the regulation is issued; and (4) Compliance costs, paperwork, and other burdens on the public must be minimized.

In response to the policies set forth in Executive Order 12044, FRA initiated a General Safety Inquiry for the purpose of evaluating and improving its safety regulatory program. This inquiry was announced in the May 8, 1978, issue of the FEDERAL REGISTER (43 FR 19696).

That notice also announced that FRA would conduct a series of two-day public hearings. The notice stated that the purpose of the hearings would be to obtain information from the public that would help FRA to determine whether many of its existing regulations should be expanded in scope, revised, or revoked.

The notice indicated that the first general area to be considered would be rolling equipment which would include locomotives, freight cars, safety appliances, and power brakes. Track and related structures, appliances, and devices was the second general area identified in the notice. The third and final general area defined includes signal and communications systems.

To date, FRA has conducted four two-day hearings. These hearings have dealt with the following subjects: (1) Locomotives (June 14 and 15, 1978), (2) freight cars and safety appliances (July 12 and 13, 1978), (3) power brakes (September 13 and 14, 1978), and (4) track and related structures, appliances, and devices (November 15 and 16, 1978). The final two-day hearing, which will focus on signal and communications systems, has been rescheduled for February 21 and 22, 1979.

### HEARING ON FREIGHT CARS

Since this notice contains proposed revisions to the current Freight Car Safety Standards set forth in Part 215 (49 CFR Part 215), the following discussion will focus on the matters receiving most emphasis at the hearing on those standards. At that hearing, extensive testimony was presented in response to the twenty-one issues set forth in the hearing notice (43 F.R. 26337). All of this testimony, and the related written comments submitted by those interested persons unable to appear at the hearing, have been fully considered. The testimony and comments are the subject of a written summary which has been placed in Docket No. RSSI-78-5. Interested persons may examine that summary during regular business hours in room 4406 of the Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

### MAINTENANCE AND INSPECTION STANDARDS

At the hearing, the Association of American Railroads (AAR) and the individual railroads asserted that many FRA standards, and particularly those prescribing periodic inspections, wear limits for wheels, and the lubrication of bearings were, in effect, maintenance or "good practice" standards rather than safety standards. Also cited as maintenance items were standards prohibiting operation of a car with one broken truck spring, cracked center plates, improper side bearing adapters, absence of free oil in a journal box at the end of a trip, wear limits for couplers and gears, missing truck side frame keys, and others.

Several commenters noted that many of the standards were, in reality, AAR Interchange Rules that had been previously adopted by FRA. In this regard, these commenters emphasized that the Interchange Rules were never intended to be safety standards. Rather, those rules were initially adopted by AAR as maintenance practices.

With regard to the FRA standards regarded as maintenance items, AAR and a number of railroads recommended revocation or, at the very least, a substantial extension of the current deadlines. As a possible remedy, several of these commenters also suggested a "range of tolerances" between maintenance limits set forth in the AAR Interchange Rules and safety limits specified by FRA. In effect, this suggestion would establish a grace period.

On the other hand, other commenters, including the Railway Labor Executives Association (RLEA), contended that current maintenance standards are essential for safety. According to those commenters, problems with freight cars are caused not by the design of the car, but rather by the way and manner in which the car is maintained. Accordingly, they recommended compliance with existing maintenance standards.

### KNOWLEDGE REQUIREMENTS

Commenting on whether knowledge of defective conditions should be required for liability, one commenter took the position that it would be unfair to penalize the railroads for defective cars on the basis of strict liability. In this regard, that commenter explained that cars can be abused at times when the railroads have no knowledge of that abuse or opportunity to prevent it.

However, RLEA stated that knowledge of defects should not have to be shown in order to fine a railroad for violating Freight Car Safety Standards. With regard to this issue, RLEA asserted that strict liability would provide the railroads with a strong incentive to discover and correct defects. Without a "lack of knowledge" defense for using defective cars, the railroads would be encouraged to conduct thorough investigations and make efforts to effectively repair those cars.

### RESEARCH

All commenters agreed that further research is needed to improve safety and performance. In this regard, RLEA noted with approval ongoing research and development of new technological systems for inspecting trains and for monitoring defects which may occur during operations. Specifically, it noted that FRA has conducted research and testing of certain devices for detecting hidden defects in wheels. As soon as one of these devices is identified as reliable, RLEA suggested that its use should be made mandatory.

AAR stated that the completion of research projects already initiated by FRA is of utmost importance. In this connection, AAR cited the Facility for Accelerated Service Testing (FAST) test, the Vertical Test Unit (VTU), and the Roller Dynamics Unit (RDU) programs. In addition, AAR recommended further financial assistance be considered to permit acceleration of projects under the Track Train Dynamics program of the AAR Research Center. These projects, which have been delayed due to shortages of funds or manpower, include an impact test series on box cars to verify recently adopted interim end strength specifications, and a parametric study of freight car roll tendencies.

### FINES

Numerous commenters focused attention on the nature and extent of fines levied for violations of the Freight Car Safety Standards. In general, the railroads argued that fines levied for violations of the standards are excessive and should be lowered. One railroad complained that FRA places emphasis on citing a carrier for violations rather than on correction of defects. In this regard, it recommended that FRA inspectors noting car defects should not await the departure of the car before bringing the defect to the attention of a railroad supervisor. That commenter asserted that safety would be better served if immediate notification of the defect were given to the supervisor on the scene.

On the other hand, RLEA asserted that fines should be increased to pro-

vide the railroads with additional incentive to comply with existing standards. In addition, RLEA recommended that a separate fine should be assessed for each violation and that the current practice of consolidaing numerous violations for negotiation purposes and settling for an overall amount should be abandoned.

REDUCTION OF REGULATORY BURDEN

According to one commenter, existing Freight Car Safety Standards can be either eliminated or simplified without sacrificing safety. According to that commenter, this approach would be consistent with the President's and the Secretary's stated concern for fewer regulations, issued in a simple, more comprehensive, and less burdensome form.

Also with regard to reducing existing burdens, other commenters contended that existing recordkeeping and other paperwork requirements, such as those required for the movement of defective cars, are burdensome and result in little benefit. Accordingly, they recommended deletion of those requirements.

OBJECTIVES OF FRA SAFETY REGULATORY PROGRAM

The primary goal of the Freight Car Safety Standards is to eliminate the more serious, prevalent and discernable hazardous conditions on freight cars. These standards are not intended to serve as a comprehensive listing of all potentially hazardous conditions. The railroads remain directly responsible for finding and correcting all hazardous equipment conditions. However, these standards do provide a yardstick to be used by FRA in monitoring and causing railroads to improve their safety performance.

FRA has undertaken a complete review of its Freight Car Safety Standards with the objective of clarifying and strengthening those that promote safety and revoking those that are burdensome and not essential for safety. In addition to relieving unnecessary burdens, this approach could enhance safety by encouraging the railroads to concentrate their limited resources in areas that require more attention and are critical to safety.

As part of its effort to identify essential regulations, FRA has examined all available accident data for the years 1975 through 1977. According to that data, there were 6,400 reportable accidents or incidents caused by defective freight cars during the years 1975 through 1977. These resulted in two fatalities and 204 injuries, or an annual average of 0.68 fatalities and 68 injuries.

A further examination of that data suggests that, from a safety standpoint, the most critical freight car components are located in the suspension and draft systems. In this connection, it should be noted that 50 percent of all equipment-related accidents reported, or approximately one thousand accidents each year, are caused by defects in freight car suspension systems. This includes failures involving wheels, bearings, and truck components. Another major problem area involves the draft system. This system, which includes the center sill, draft gear, couplers, and body bolsters, is responsible for nearly 25 percent of all equipment related accidents.

The present Freight Car Safety Standards contain some maintenance and inspection requirements that are costly, disruptive, and wasteful in that they divert the limited resources of the railroads away from areas of critical safety concern. To illustrate, a requirement to repack or lubricate bearings within specific time intervals focuses attention on whether or not the compliance date has been met. However, this requirement diverts attention away from the factor that is essential from a safety standpoint, namely, the condition of the bearings.

The current maintenance and inspection requirements have also had a considerable impact on FRA inspection activities. Instead of concentrating on critical car components, FRA inspectors now spend considerable time checking dates stenciled on cars and minor maintenance items. A review of alleged violations during the years 1976 and 1977 illustrates this point. During those years, 35.5 percent of all alleged violations (2,926 out of a total of 8,251) were assessed for failure to repack or lubricate journal bearings within specified time intervals.

Deletion of the pre-departure inspection requirement would also afford the railroads increased flexibility. Each railroad would have the opportunity to tailor an inspection program more suited for its particular operating environment. In some cases, a railroad may use means other than a pre-departure inspection to assure safety. In these instances, inspection intervals could be lengthened and savings realized.

Further flexibility would be provided if FRA's proposed periodic inspection intervals are adopted. After the initial periodic inspection is performed, rigid time intervals would no longer have to be observed. Subsequent inspections could be scheduled on a basis of time or mileage. By affording the railroads flexibility in the scheduling of periodic inspections, disruptions in service should be reduced.

The elimination of maintenance and inspection requirements and certain revised wear limits that are being proposed, if adopted, should result in substantial savings. FRA estimates that these savings should amount to more than 100 million dollars annually.

These savings could be used to eliminate serious safety defects. For example, resources that have been spent in the past to meet rigid lubrication, repacking, and pre-departure inspection requirements could be expended to maintain and improve suspension and draft components that have been a major cause of accidents.

If pre-departure inspections and the performance of minor maintenance tasks are no longer required by Federal regulation, the railroads would be allowed more flexibility to manage their day-to-day operations. FRA's resources would be directed to assuring that railroads are keeping critical car components, such as wheels and bearings, in safe operating condition. However, it should be emphasized that each railroad would be responsible for eliminating unsafe conditions. FRA inspectors would strictly enforce the revised standards. This is especially true in the case of revised wear limits.

The amount of a fine assessed would relate directly to the gravity of the violation. To illustrate, if cars with defective components are released from repair shops, or placed in outbound trains, these violations would be considered particularly serious and would warrant larger fines than similar defects under other circumstances. The amount of fines assessed would also vary according to the degree that prescribed wear limits are exceeded. FRA will include in the amendment based on this proposal a revised penalty schedule equating the amount of penalties to be assessed with the nature and degree of violations.

In addition, it should be noted that fines would be assessed for critical defects irrespective of whether the railroad had actual knowledge of the defect. In view of the greatly reduced number of defective conditions listed in the revised Standards, and in light of the substantial savings and flexibility the railroads would realize, the task of maintaining critical car components in proper condition should not be unduly burdensome.

In reviewing the Freight Car Safety Standards, FRA attempted to determine whether the standards had been useful in enhancing safety. For the most part, the Standards are patterned after industry practices with respect to wear, damage, inspection and maintenance of cars and components. They do not deal with the design of cars and components. The Federal role has been essentially one of a policeman. In that role, FRA can inspect only a minute portion of the approximately 1.7 million freight cars in service at the present time.

It has been extremely difficult to determine whether FRA's monitoring

role has improved the safety of cars to any meaningful extent. FRA inspections have prevented numerous cars from moving with defects which might have caused accidents. Also, operations at many railroad locations have been improved. It is not known, however, whether the existence and enforcement of the Standards have resulted in more funds being made available for safety overall, and in available funds being used more effectively. FRA welcomes comments on these issues.

On the basis of available information, FRA proposes to retain a reduced set of safety requirements relating to critical car components—which, like the lengthier current set, are not intended to be comprehensive—and to require a thorough periodic inspection and repair program. More than 50 current requirements would be either eliminated or limited to the periodic inspection.

Presently, the railroad industry does not have a requirement for periodic inspections of freight cars. Generally, cars receive only "walk-by" inspections in yards, primarily to discover easily discernible running gear and brake defects. Also, due to the limited capacity of repair facilities, only critical defects are generally corrected on repair-tracks. Thus, because of the lack of a comprehensive inspection and repair program, cars may develop critical component defects that are not discovered and repaired prior to complete failure during train operations. FRA believes that a comprehensive periodic inspection and repair program should be required to detect and remove from service these critical components prior to failure.

FRA estimates that the well over $100 million in potential annual savings resulting from the proposed changes could far more effectively be used to enhance safety if reallocated to critical areas.

## Future Actions Relating to Railroad Freight Cars

In addition to the proposed minimum freight car safety standards set forth in this notice, FRA is currently considering other safety standards to improve the performance of railroad freight cars and to protect the public and railroad employees. These standards, which are summarized below, will address in detail other critical safety concerns.

### CRASHWORTHINESS AND ENVIRONMENTAL STANDARDS FOR CABOOSES

Most of the serious and fatal injuries suffered by freight train occupants occur in the caboose car. These injuries and fatalities frequently are caused by slack actions and rear end collisions. In an effort to reduce injuries and fatalities caused by rear end collisions, FRA is considering crashworthiness standards aimed at upgrading the structural integrity of new caboose cars. To lessen the impact of slack actions, it is considering a requirement that cars be equipped with adequate cushioning systems and that certain environmental controls be observed. Among the controls being considered are those that would require the securing of detached objects and the removal of certain gas containers from the interior of the car.

### CAR DYNAMICS

Many derailments in recent years have been caused by rock-and-roll problems and other vehicle/track interaction. These generate excessive vertical and lateral forces on cars and track during operations. To help remedy this problem, FRA is considering minimum performance requirements for freight cars including maximum permissible vertical and lateral force levels.

### TRAIN DYNAMICS

Derailments are often caused by the development of transient longitudinal train forces which can lead to broken couplers, automatic emergency brake applications, and jackknifed or derailed cars. Factors affecting the development of excessive train forces include: the number and placement of locomotive power units, train length, the application of power and braking in relation to the terrain, variations in individual car braking, the mix and placement of empty and loaded cars, the weight and length of freight cars, and the type of draft gear or cushioning devices on the cars. FRA is considering the feasibility of formulating performance limits to ensure safe train action.

### POWER BRAKES

The power brake requirements set forth in Part 231 (49 CFR Part 231) have not been revised since 1958. FRA is currently reviewing those requirements with the objective of removing antiquated and redundant provisions and deleting unnecessary maintenance and inspection requirements.

## Discussion of Proposal

The following is a discussion of the substantive proposed revisions to the current safety standards applicable to freight cars. Since these proposed revisions are extensive in nature, they are discussed below under separate subject headings.

### APPLICATION

Part 215 (Railroad Freight Car Safety Standards) prescribes standards for most railroad freight cars operating on standard gauge track that is part of the general railroad system of transportation. This part does not apply to freight cars used solely on track inside an installation that is not part of that system or to those used exclusively in dedicated service.

Like the cars excepted from compliance with Part 215, maintenance of way vehicles used exclusively in work train service are operated at slow speeds and are not used in interchange service. In light of these factors, FRA believes that freight cars used exclusively in work train service should be excepted from the requirements contained in Part 215. This exception is reflected in proposed § 215.3(c)(3). However, to guard against use of those cars in other service, the cars would have to be stenciled to indicate that they are to be used in work train service only.

### DEFINITIONS

Current § 215.5(f) contains the definition of the term "dedicated service." Under paragraph (f)(2) of that section, a car used in dedicated service is defined as one that does not travel for more than 30 miles while operating over track that is part of the general railroad system of transportation.

This definition has been the subject of considerable confusion. Although FRA has issued several interpretations pertaining to this provision, it apparently remains unclear as to whether a car used in dedicated service may be operated on a round-trip that exceeds 30 miles.

It is proposed to amend § 215.5(f)(2) to provide that a car used in dedicated service may not be operated for more than 30 miles in one direction, but may be operated on a round trip not to exceed a total of 60 miles. This provision, if adopted, should clarify this provision and eliminate the need for further interpretations.

### PROHIBITED ACTS

Section 215.7 (Responsibility for defective cars) would be revised to permit the assessment of fines for failure to comply with the revised standards with respect to any car which is "in service" as defined in proposed § 215.5. The only defective cars that would not be subject to civil penalties are those that are not "in service". A car would be considered out of service only if it is on a repair track or tagged with a "bad order" tag for movement to a repair track.

In place of the current § 215.7 (Responsibility For Defective Cars), FRA proposes to issue a simple statement of prohibited acts. While the current regulation creates civil penalty liability only where it is shown that the railroad knows or should know of a defect, the proposed rule would estab-

lish absolute liability similar to that which exists under the Safety Appliance Acts and other railroad safety statutes which have been authoritatively construed by the courts since the early years of this century. The Federal Railroad Safety Act of 1970 does not itself contain any scienter (knowledge) element and also reads in terms of absolute liability.

FRA believes that the safety considerations attendant to the proposed standards are of a gravity equivalent to those of the older safety laws. The retention of a scienter requirement together with the deletion of presently required train or "daily" inspections (§ 215.23) would create a disincentive to inspect properly. Accordingly, railroads should be held to a strict duty to discover and correct defective conditions.

MOVEMENT OF DEFECTIVE CARS FOR REPAIR

Under current § 215.9, a railroad freight car having a defective component may be moved for repair if certain conditions are met. Among these conditions is one requiring that a "bad order" or "home shop for repairs" tag or card be securely attached to the side of the car.

FRA is concerned that cars tagged for repair may be moved considerable distances before needed repairs are made. Since under this proposed revision all tagged cars will have defective critical components, FRA believes their movement should strictly be limited.

To eliminate excessive movement of defective cars, it is proposed to require that defective cars discovered outside a yard be repaired at the nearest repair point or the nearest forward repair point. This proposal is set forth in § 215.9 of this notice.

Cars found defective in a yard could not be moved beyond the yard, unless repairs could not be made at that point. In such a case, those cars would be subject to the same restrictions that apply to defective cars found outside a yard. If repairs can be made in the yard, these cars would be subject to certain restrictions to assure that they are safely moved and withdrawn from service.

STENCILING

This notice proposes the deletion of the periodic repack and lubrication requirements set forth in current § 215.97 and § 215.99. In view of these proposed deletions the current stenciling requirements pertaining to periodic lubrications would no longer be necessary. Therefore, these requirements would be revoked under this proposal.

Current § 215.11, which pertains to stenciling, would also be revoked, and all pertinent provisions would be included within a new Subpart E. This subpart also contains the symbols that would have to be used if required periodic inspections are performed in accordance with the new proposed options set forth in this notice. These new options, which are explained in detail below, would permit required periodic inspections to be performed on the basis of mileage records, odometer mileage, or extensions approved by the Administrator. In addition, the new subpart sets forth the stenciling symbols that would have to be applied to a car that is used exclusively in work train service.

Finally, the information that currently must be stenciled on a car receiving a periodic inspection has been modified somewhat to indicate more clearly when the next required inspection is due. In this connection, it should be noted that the deadline for completing the initial periodic inspection was recently extended from December 31, 1978, to December 31, 1979 (43 FR 59072). As a result, the reference in current § 215.11 to the former compliance date has been deleted.

DESIGNATION OF QUALIFIED PERSONS

Current § 215.15 requires that the railroads designate qualified persons to inspect railroad freight cars for defects. This section also requires the railroads to maintain records of the basis for each designation.

As previously noted, day-to-day management concerns as to the most efficient means to comply with these standards and otherwise achieve safety would be left to the railroads if the proposals set forth in this notice are adopted. In view of this, FRA believes that this section, and the record-keeping requirements it prescribes, can no longer be justified. Moreover, this provision has not been effective, nor can it reasonably be made effective without the institution of a major program for the Federal licensing of railroad inspectors. Accordingly, it is proposed to revoke § 125.15 in its entirety.

WAIVERS AND CIVIL PENALTIES

Current § 215.17 and 215.19 set forth, respectively, the procedure for filing a waiver petition and the maximum and minimum civil penalties that are assessed for violations. These sections are redundant since the waiver procedure already is described in Part 211 (49 CFR Part 211), and since Subpart D contains a detailed schedule of civil penalties which, as previously noted, will be further expanded and updated at the time the amendment based on this proposal is adopted. Therefore, FRA proposes to revoke §§ 215.17 and 215.19.

PRE-DEPARTURE AND PERIODIC INSPECTIONS

The current pre-departure inspection requirements set forth in Subpart B of Part 215 would be revoked for reasons already discussed. However, the periodic inspection requirement would be retained and would include the defective conditions referenced in current Subparts C through I that are difficult, if not impossible, to discern in a yard. These defects can be readily detected and corrected during a periodic inspection when the cars are detrucked and trucks are partially disassembled, as proposed in this notice.

FRA realizes that many of the defects that the periodic inspection is specifically designed to detect might otherwise be detected during the three or four occasions each year that the average car is on a shop or repair track. These defects should be corrected before the car is returned to service. Nevertheless, FRA believes the periodic inspection is essential to assure that each freight car in the national fleet is thoroughly examined at reasonable intervals for safety defects that are difficult to discern and correct in the railroad operating environment. Although this proposal would only require railroads to inspect for and correct these defects as part of a periodic inspection, the railroads are responsible for maintaining freight cars in safe operating condition; and it is in their best interest to make every reasonable effort to find and correct these defects whenever a car is on a shop or repair track.

All of the proposed new periodic inspection requirements are set forth in detail in Subpart C of this proposal. As a result, the railroads no longer would be required to submit periodic inspection programs for approval of the Administrator as currently required by § 215.29. Nor would safety inspection instructions be used in connection with pre-departure inspections have to be submitted for approval under that section. Therefore, § 215.29 would be revoked by this proposal.

Under this proposal, a railroad could elect to perform required periodic inspections in accordance with the time intervals currently in effect; or, after performing the initial inspection, it could elect to schedule subsequent inspections based on mileage intervals.

With respect to mileage intervals, it should be noted that new or reconditioned cars could be operated for 200,000 miles before a periodic inspection would be required. Other cars could be operated for 100,000 miles before being inspected.

In order to inspect its cars on the basis of mileage intervals, a railroad would have to install a tamper proof reliable odometer or would have to

maintain accurate mileage records for the cars.

The FRA estimates that use of the proposed mileage interval, rather than the time interval currently required, would result in a 20 percent reduction each year in the number of required periodic inspections. This reduction, when considered in light of the 450,000 cars due for periodic inspection each year and an average cost of $640 to perform each inspection, would result in an annual savings of $57,600,000.

In recognition of the fact that some railroads may have a superior maintenance program, or may wish to establish such a program, it is proposed to permit these railroads to petition the Administrator for an extension of the proposed periodic inspection intervals. These petitions would have to be accompanied by appropriate supporting information and would only be approved if justified on the basis of high quality maintenance and components, and outstanding safety performance. Moreover, requests for extension would be limited to high utilization cars, since such cars must otherwise be inspected at intervals as short as 12 months.

Many of the car components that would be examined during periodic inspections are located in the suspension and draft systems. Since these components have been the major cause of accidents, it is essential that they be repaired or replaced if found to be defective. Accordingly, under this proposal, defective components would have to be repaired or replaced before cars are returned to service.

Finally, FRA proposes to identify those car repair facilities which are authorized to perform periodic inspections. Paragraph (a) of proposed § 215.69 would provide that periodic inspections may only be conducted by a railroad. Equipment essential to detrucking of the car and disassembly of components would have to be provided at the railroad's facility.

FRA recognizes that, as a practical matter, a large number of private car shops perform periodic inspections and other work required to keep freight cars free from defects. These shops conduct railroad operations related to movement of cars and, for such purposes, are small railroads. The requirements of existing regulations that connecting railroads vouch for the periodic inspections conducted by these shops affixing the connecting railroad's stencil has placed those railroads in the difficult position of attesting to the quality of work not performed under their day-to-day supervision. Moreover, negotiations between car shops and connecting railroads over the conditions under which a railroad stencil will be affixed have not proceeded satisfactorily in some instances, thereby materially impeding the completion of required inspections.

Therefore, FRA proposes to include within the proposed definition of "railroad" (§ 215.5(h)) any entity which engages in railroad operations in connection with the construction, repair or inspection of freight cars subject to Part 215, provided that the entity elects to become subject to that part. As a result, any private car company or contract shop that wishes to conduct periodic inspections as a part of its business would be required to file a statement of election with FRA, assuming responsibilities commensurate with the benefits which it wishes to enjoy.

### Defective Cars

Current Subparts C through I set forth minimum safety requirements for railroad freight cars. Those subparts specify condemning limits for freight car components and describe defective conditions. The components covered are wheels (Subpart C), axles (Subpart D), journal bearings (Subpart E), other truck components (Subpart F), car bodies (Subpart G), couplers (Subpart H), and draft systems (Subpart I).

In response to many comments regarding condemning limits and defective car components, FRA has carefully reviewed current Subparts C through I. As a result of that review, a number of revisions to those subparts are being proposed. These revisions are discussed below.

### WHEELS

The current wear limits pertaining to flange thickness and rim thickness have been in effect for a considerable period of time. Since the adoption of these limits, the quality of wheels has substantially improved due to the introduction of new materials and the use of more advanced manufacturing practices. For example, cast iron wheels have been replaced by steel wheels. In addition, the quality of steel used to manufacture wheels has been upgraded as a result of factors such as improved heat control and forging techniques.

In light of these advancements, it is proposed to revise current Subpart C to permit additional wear on wheels before they are considered safety defects. FRA expects that the present AAR interchange rule wear limits for wheels will not be revised to reflect FRA's proposed new wear limits. As a result, railroads would, in effect, have their requested "grace period" between the wear point when a railroad *may* be reimbursed for replacing a wheel on another railroad's car and the point at which the Freight Car Safety Standards *require* that wheel to be replaced. The duration of this "grace period" would vary widely according to mileage traveled and type of service. Specifically, an additional 1/16 of an inch of wear on wheel flanges and rims would be permitted. A recent study prepared for FRA indicates that this additional wear should result in a savings to the railroads of about 25 million dollars per year. The present 1½ inche wear limit for high flanges has not been increased because a wheel worn beyond this point would not clear the flangeway on frongs in classes 2 through 6 track (49 CFR 213.137(a)).

Section 215.43(e) currently provides that a wheel is defective if it has a cracked or broken rim, flange, plate, or hub. Under this proposal, this provision would be revised to provide that only radial cracks are considered safety defects. Unlike other cracks, radial cracks tend to propagate rapidly and undermine the structural integrity of the wheel. Therefore, whenever they are detected in a wheel rim, flange, plate, or hub, the wheel should be removed from service.

Paragraph (g) of that section provides that a wheel is defective if it has a contiguous (adjoining) pieces of metal shelled out of the circumference of the tread. This proposal provides that if a wheel is shelled, or has a spall one inch in diameter or more, the wheel is defective. Spalling is deep pitting caused by a hot spot in a localized area. When a spall is one inch in diameter or more, it is considered sufficient to undermine the structural integrity of the wheel and to require its removal.

Section 215.43(n) currently provides that a wheel is defective if overheated. That paragraph also provides that overheating evidenced by a reddish brown discoloration from heat on the front and back face of the rim and plate that extends into the plate one-half of the distance from the tread surface to the axle with decreasing intensity.

Based on its reevaluation of this provision, FRA believes that a wheel should be considered defective before the discoloration extends one-half of the distance from the tread surface to the axle. Once discoloration on the front or back faces of the rim extends more than four inches into the plate area, the metal structure of the wheel is considered distorted to a degree that could cause wheel failure. This standard has been inserted in the new proposed regulations.

Finally, current § 215.45 (Defective Wheels Sets) provides that a wheel set is defective if the wheels are out of gage so that the distance between the inside faces of the wheel rims is less than 52 1/16 inches or more than 53⅜

inches. FRA believes that this defect cannot be reasonably discovered during the conduct of routine inspections in a yard. However, the defect can readily be detected and corrected during a periodic inspection. Therefore, this proposal would require that cars be inspected for this defect during periodic inspections.

AXLES

As explained in the discussion regarding wheels, a radial crack is considered a defect sufficient to require removal of the wheel from service. Likewise, an axle having a radial crack is considered defective. Accordingly, current § 215.53 (defective axles) would be amended to provide that a car may not be continued in service if it has an axle with a radial crack.

Under this proposal, an axle with a plain bearing would be considered defective if that axle has an end collar which is broken or cracked. The end collar is the portion of the axle which restricts the lateral movement of the bearing. If the collar is cracked or broken, it could damage the lubricating pad. This, in turn, could lead to failure of the axle and a derailment. Accordingly, under this proposal, a car having this defect would have to be withdrawn from service.

In addition, this notice provides that a journal is defective if it is overheated, as evidenced by a pronounced blue-black discoloration. This condition is indicative of severe metallurgical damage to the steel and the possible presence of stress cracks. These factors can cause the axle to fail and break off. As in the case of an axle with an end collar that is broken or cracked, a car having this condition could not be continued in service.

Under current § 215.53(d), an axle is defective if it has a bend which provides a runout of more than three-eights of an inch at the center of the axle. As in the case of wheels that are out of gage (current § 215.45), this defect cannot be reasonably seen or measured in the yard. Therefore, an axle would have to be inspected for this defect, and repaired if necessary, during periodic inspections.

Finally, current § 215.53(e) provides that, in the case of journals on plain bearing axles, the journal is defective if worn beyond certain limits which are set forth in a chart displayed in that section. After reviewing this provision and other available data, FRA believes that these journals should be required to be inspected and replaced, if necessary, during periodic inspections.

JOURNAL BEARINGS

Current § 215.83 (Defective Plain Bearing Boxes) provides that a plain bearing box is defective if the box lid is missing, broken, or otherwise not preventing contaminants from entering the box. This provision would be retained. In addition, the box would be defective if it contains any foreign matter that could damage the bearing or have a deterimental effect on the lubricant.

Paragraph (d) of this section provides that a plain bearing box is defective if it is cracked or has holes that permit leakage. Some boxes are designed with holes in the back. Leakage of oil through these holes is not in itself detrimental from the standpoint of safety. Of greater importance is the need to assure that the box contains free oil. Accordingly, current § 215.83(d) is not believed necessary and would be revoked.

A number of defects listed in current Subpart E, like others previously mentioned, are considered too intricate to be reasonably detected in the yard. These defects, which pertain to plain bearings, plain bearing wedges, and roller bearing adapters, are as follows:

1. Wear at either end of a plain bearing that reduces its length more than one-fourth inch (§ 215.89(c)).

2. Combined wear on a plain bearing that reduces its length more than three-eighths inch (§ 215.89(e)).

3. A lug in a plain bearing that is worn more than one-eighth inch (§ 215.89(e)).

4. Combined wear on both sides of the lug extension more than one-fourth inch (§ 215.89(f)).

5. Lining of a plain bearing worn through to brass more than three-eighths inch above the lower edge of the brass sidewall (§ 215.89(h)).

6. Wear on a plain bearing wedge, measured at the contact surfaces, which reduces its overall length more than three-sixteenths inch (§ 215.91(b)).

7. A bottom surface unevenness, on a plain bearing wedge, of more than one sixty-fourth inch (§ 215.91(c)).

8. Wear on the top of a plain bearing wedge as described in Figure 7 (§ 215.91(d)).

9. Wear on the crown of a roller bearing adapter to the extent that the frame bears on the relief portion of the adapter, as shown in Figure 8 (§ 215.95(c)).

10. Wear on the thrust shoulder of narrow adapters more than .025 inch on either side, as measured by gage No. 8, Figure 9 (§ 215.95(d)).

Under this proposal, inspection for these defects would have to be made during required periodic inspections. If these defects are discovered at that time, they would have to be repaired before a car is returned to service.

Section 215.93(a) currently provides that a roller bearing that has been involved in a derailment, or submerged in water, may not be used until it is inspected and repaired if necessary. Although this provision requires an inspection of those bearings, it does not specify the manner in which that inspection must be conducted.

Under this proposal, those bearings would have to be disassembled from the axle for inspection, unless each of the following can be demonstrated: (1) The bearing was involved in a derailment at a speed of less than ten miles per hour; (2) The bearing was dragged on the ground for a distance of less than 200 feet; (3) The bearing shows no external signs of damage; and (4) The bearing makes no unusual noise when the wheel set is spun freely. With this one limited exception, FRA believes that disassembly of the bearing is necessary since, in the case of most derailed bearings and those submerged in water, damage can only be detected by internal inspection of the bearing.

Section 215.93(b)(1) currently provides that a roller bearing is defective if heated in excess of 250 degrees Fahrenheit. This provision is virtually unenforceable since it is difficult to determine whether a bearing has been subjected to that degree of heat. FRA believes that discoloration of a bearing is a better indicator of overheating than the standard currently in effect. Accordingly, this proposal defines overheating by discoloration rather than by the current standard.

Under current § 215.93(b)(4), a roller bearing is considered defective if it has a missing (unless by design) truck side frame key, pedestal bolt, or stop block. Since the primary function of these components is to facilitate rerailing of derailed cars, FRA believes that this provision is not essential from a safety standpoint. Accordingly, it would be deleted by this proposal.

Current § 215.97 provides that a plain bearing box is defective if it is not repacked within the time intervals prescribed by paragraph (a) of that section, unless the car was reconditioned or originally constructed within those time intervals. Paragraph (b) of that section sets forth the procedure which must be followed when those boxes are repacked.

In light of the proposed sections that would require sufficient free oil in plain bearing boxes, a lubricating pad in proper condition, and a box free of foreign matter that could damage the bearing, FRA believes that § 215.97 is no longer necessary and should be revoked. Thus, the interval and method for repacking plain bearing boxes would no longer be prescribed by FRA. However, a plain bearing box containing a defect described by this paragraph would result in a fine as prescribed by Part 215.

Current § 215.99 would also be revoked under this proposal. That sec-

tion sets forth lubrication requirements applicable to oil lubricated roller bearings and grease lubricated roller bearings.

FRA believes that this action is appropriate in part due to the introduction of NFL (no field lubrication) bearings. Those bearings are designed to operate during their entire useful life without re-lubrication. Moreover, NFL bearings have the benefit of improved seals and lubricants. Also the present lubrication requirements may result in over lubrication. Roller bearings and that are over lubricated register higher bearing temperatures on hot box detectors and result in many cars being unnecessarily removed from trains.

In addition, it should be noted that this proposal would prohibit the use of defective roller bearings, such as those that have been overheated or those having a loose or missing cap screw. Thus, FRA believes that it is appropriate to revoke current § 215.99.

FRA estimates that deletion of the current journal bearing lubrication requirements should result in substantial savings. To illustrate, the industry has indicated that, absent a Federal regulation, the lubrication cycle for roller bearings will be increased from four to eight years. As a result of this increase, the industry would lubricate 125,000 fewer roller bearing equipped cars each year. At an estimated cost of $110 per car, the annual savings in this area would amount to $13,750,000.

The railroad industry would be able to adjust the repack interval for plain bearing boxes so that it coincides with other inspection intervals. If this is done, FRA estimates that 200,000 fewer cars that are equipped with plain bearing boxes would be repacked each year. At an estimated cost of $180 per car, this would result in a savings of $36,000,000 annually. Thus, the total savings realized from the deletion of journal bearing repack and lubrication requirements would amount to approximately $49,750,000 annually.

OTHER TRUCK COMPONENTS

Subpart F of Part 215 (Other Truck Components) currently prescribes minimum safety requirements for truck side frames, bolsters, side bearings, spring assemblies, and spring planks on railroad freight cars. Under § 215.123(a)(1), a car truck is defective if it has a side frame or bolster that is broken, patched, cracked, or reinforced with plate, including a break or crack in a bolster gib.

For reasons previously discussed in connection with wheels and axles, this notice would revise the current rule to provide that a side frame or bolster is defective if it has a transverse crack or is broken.

The notice would add a provision indicating that a car truck is defective if it is equipped with snubbing units, attachments, or wear plates worn to the extent that the snubbing is ineffective or the snubbing units are broken. These components play a vital role in countering rock-and-roll and other dynamic forces generated by heavy and high center of gravity cars that now make up a substantial and ever increasing portion of the national freight car fleet. This proposal is believed essential for safety because if these components are defective, a derailment could result.

Current § 215.123(d) provides that a car truck is defective if it has a spring assembly with a broken or missing snubber or outer spring, which does not maintain travel or load or which is weakened so as to be compressed solid. Upon further consideration of this provision, FRA believes that a car truck should not be considered defective if it has only one missing outer spring. However, it is believed that if more than one outer spring is broken or missing, the car would not be adequately supported and a derailment could result. Therefore, this notice provides that a car truck is defective if it has more than one outer spring that is missing or broken.

Finally, § 215.123(e) provides that a car truck is defective if its design includes spring planks and a plank is missing, broken, worn, or corroded through more than 25 percent of its cross section. Since these defects can reasonably be detected during a periodic inspection but not in a yard, this provision would be included within proposed Subpart C (Periodic Inspection).

CAR BODIES

Subpart G of Part 215 prescribes minimum safety requirements for certain conditions on railroad freight car bodies. Two of the conditions listed as defects in that subpart can be reasonably detected only during a periodic inspection. These are as follows:

1. A male portion of a standard cylindrical type center plate extends less than 1 inch into the female portion of the center plate (§ 215.153(b)).

2. A center pin is missing, unless by design (215.153(h)). These provisions have been transferred to proposed Subpart C (Periodic Inspection).

In addition, this notice provides that a box car is defective if it has a side door which does not have safety hangers or the equivalent. Safety hangers are designed to prevent doors from falling off cars. This provision is considered necessary since, in the past three years, three persons have been killed by doors that have separated from box cars. In addition, doors that fall from a car onto the right of way could pose a serious threat of derailments.

COUPLERS

Current Subpart H prescribes minimum safety requirements for couplers. For reasons already detailed, the following paragraphs in the current subpart have been incorporated without substantive change into the new subpart containing periodic inspection requirements.

1. The shank on a Type E coupler is bent out of alinement with the head more than nine-sixteenths inch (§ 215.173(a)(1)).

2. The shank on a Type E coupler is worn more than seven-sixteenths inch (§ 215.173(a)(2)).

3. The shank on a Type F coupler is worn more than seven-sixteenths of an inch (§ 215.173(b)(1)).

4. A coupling device is defective if, in the case of a bottom operated coupler, the lever does not have at least one-fourth inch clearance between the operating rod eye and the locklift lever when the coupler is centered and the knuckle is fully closed and locked (§ 215.177(b)).

5. Section 215.173(a)(3) which provides that a Type E coupler is defective if the distance between the guard arm and the knuckle nose is more than $5^{5}/_{16}$ inches.

Furthermore, a number of items in the current subpart would be deleted under this proposal on grounds that they are not considered essential for safety. These items are as follows:

1. Section 215.173(b)(2) which provides that a Type F coupler is defective if the distance between the front face and the knuckle nose is more than $3^{13}/_{16}$ inches.

2. Section 215.175(a) which provides that a Type E knuckle is defective if it is worn in excess of the limits indicated by Gauge No. 5, as depicted in that section.

3. Section 215.175(b) which provides that a Type F knuckle is defective if it is worn or stretched in excess of the limits indicated by Gauge No. 6, as depicted in that section.

4. All of current § 215.179 which describes certain defective interlocking features on couplers.

Finally, a new proposed rule pertaining to couplers would be added by this proposal. Under this proposed rule, a railroad could not operate a car if a shank on a coupler were bent out of alignment to the extent that the coupler could not automatically couple with an adjacent car. This proposal is intended to eliminate the need for workers to go between cars in order to align defective couplers. FRA believes that this practice involves an unacceptably high risk of injury and should be avoided.

REVISIONS TO APPENDICES

Several revisions to the appendices in current Part 215 are necessary in view of the proposed revisions which have been discussed. In this connection, the diagrams in Appendix A depicting Gauges Nos. 4, 6, 7A, and 7B, would be deleted. These gauges are used to detect defective type F couplers. However, under this proposal, the defects which the gauges are designed to detect are no longer considered safety defects. As a result, the diagrams referenced above serve no useful purpose.

In view of the proposed deletion of lubrication and repack intervals for plain bearings and roller bearings, the stenciling examples for those intervals are no longer necessary. Therefore, they would be deleted from the chart included within Example 1 of current Appendix C. Also, if the proposed stenciling requirements set forth in Subpart E of this notice are adopted, Appendix C will be revised for consistency with the new requirements.

Appendix B would be amended to include a reference to 70T U-1 wheels within the list of prohibited components described in that appendix. This proposal is consistent with Emergency Order No. 7 (43 F.R. 12691), which requires that those wheels be removed from service before January 1, 1979.

In addition, it is proposed to revise the penalty schedule set forth in current Appendix D. The revised schedule contains a wide range of penalties. The effect of the new schedule would be to ensure that the amount of a penalty more accurately reflects the seriousness of the violation for which it is assessed.

Finally, Appendix E would be revised, as necessary, to reflect the new wear limits proposed in this notice. All of these proposed revisions to the current appendices will be made, as necessary, at the time the amendment based on this proposal is adopted.

ECONOMIC IMPACT

FRA has determined that this notice does not contain a significant regulatory proposal. Therefore, a Regulatory Analysis under Executive Order 12044 is not required (E.O. 12044, 43 FR 12661, March 24, 1978).

In addition, FRA has evaluated this proposal in accordance with DOT's existing and proposed policies for the evaluation of regulatory impacts. Since the proposed regulations would, on balance, reduce the number of regulatory requirements currently in effect, and reduce existing regulatory burdens, FRA concludes that a detailed evaluation is not warranted (Policies and Procedures for Simplification, Analysis, and Review of Regulations, 43 FR 9582, March 8, 1978; Proposed Regulatory Policies and Procedures, 43 FR 23925, June 1, 1978).

WRITTEN COMMENTS AND HEARING

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the notice number, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590. Communications received before March 14, 1979, will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

In addition, FRA will conduct a public hearing on March 7, 1979, in Room 3201, 2100 Second Street SW., Washington, D.C. at 10 a.m. The hearing will be informal, and not a judicial or evidentiary hearing. There will be no cross examination of persons making statements. A staff member of FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have the opportunity to present their oral statements.

At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statement will be made a part of the record of the hearing and will be a matter of public record. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590 (Phone 202-426-8836), before March 2, 1979, stating the amount of time required for the initial statement.

The proposals contained in this notice may be changed in light of the oral statements made at the public hearing, or the written comments submitted in response to this notice.

THE PROPOSED RULE

In consideration of the foregoing, FRA proposes to revise Part 215 (49 Part 215) to read as follows: Part 215—Railroad Freight Car Safety Standards

Subpart A—General

Sec.



AUTHORITY: Secs. 202, 208, 209, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 437, and 438); Sec. 1.49(a), Regulations of the Office of Transportation (49 CFR 1.49(n)).

Subpart A—General

§ 215.1 Scope of part.

This part prescribes minimum Federal safety standards for railroad freight cars.

§ 215.3 Application.

(a) After December 31, 1979, and except as provided in paragraphs (b) and (c) of this section, this part applies to any railroad freight car on standard gauge track that is part of the general railroad system of transportation.

(b) Sections 215.51 through 215.71, and 215.93 through 215.97, do not apply to any car—

(1) Owned by a Canadian or Mexican Railroad; and

(2) Having a Canadian or Mexican reporting mark and car number.

(c) This part does not apply to a railroad freight car that is—

(1) On track inside an installation that is not part of the general railroad system of transportation;

(2) used exclusively in dedicated service as defined in § 215.5(d) of this part; or

(3) Maintenance of way equipment, or self-propelled maintenance of way equipment, if that equipment is—

(i) Used exclusively in work train service; and

(ii) Stenciled in accordance with Subpart E of this part for use exclusively in work train service.

§ 215.5 Definitions.

As used in this part—

(a) "Break" means a fracture or separation resulting in a loss of structural integrity so that the component involved can no longer perform the function for which it was designed;

(b) "Cracked" means broken or fractured without complete separation into parts, except that castings with shrinkage cracks or hot tears that do not significantly diminish the strength of the member are not considered to be "cracked;"

(c) "Railroad freight car" means a car designed to carry freight, or railroad personnel, by rail and includes a—

(1) Box car;

(2) Refrigerator car;

(3) Ventilator car;

(4) Stock car;

(5) Gondola car;

(6) Hopper car;

(7) Flat car;

(8) Special car;

(9) Caboose car;

(10) Tank car;

(11) Yard car; and

(12) Maintenance of way car not used exclusively in work train service;

(d) "Dedicated Service" means the exclusive assignment of cars to the transportation of freight between specified points under the following conditions:

(1) The cars are operated—

(i) Primarily on track which is inside an installation that is not part of the general railroad system of transportation; and

(ii) Occasionally over track that is part of the general railroad system of transportation;

(2) The cars are not operated—

(i) At speeds of more than 15 miles per hour; and

(ii) Over track that is part of the general railroad system of transportation—

(A) For more than 30 miles in one direction; or

(B) On a round trip of more than 60 miles;

(3) The cars are not freely interchanged for movement in the general railroad system of transportation;

(4) The words "Dedicated Service" are stenciled, or otherwise displayed, in clearly legible letters on each side of the car body;

(5) The cars have been examined and found safe to operate in dedicated service;

(6) The railroad must—

(i) Notify the FRA in writing that the cars are to be operated in dedicated service;

(ii) Identify in that notice—

(A) The railroads affected;

(B) The number and type of cars involved;

(C) The commodities being carried; and

(D) The territorial and speed limits within which the cars will be operated; and

(iii) File the notice required by this paragraph not less than 30 days before the cars operate in dedicated service;

(e) "High utilization car" means a car—

(1) Specifically equipped to carry trucks, automobiles, containers, trailers, or removable trailer bodies for the transportation of freight; or

(2) Assigned to a train that operates in a continuous round trip cycle between the same two points;

(f) (1) Except as provided in paragraph (f) (2) of this section, "in service", when used in connection with a railroad freight car, means that the car is

(i) On the property of a railroad; or

(ii) Within the control of a railroad.

(2) For purposes of this part a car is not considered "in service" if—

(i) A "bad order" tag is attached to the car and it is handled in accordance with § 215.9 of this part;

(ii) The car is in a shop; or

(iii) The car is on a repair track;

(g) "Railroad" means—

(1) Any entity which performs rail transportation services over standard gauge track which is a part of the general railroad system of transportation; and

(2) Any entity which—

(i) Operates or contracts for the operation of freight cars on trackage connected to the general railroad system of transportation;

(ii) Constructs, repairs, inspects, or otherwise maintains freight cars subject to this part; and

(iii) Elects to become subject to this part by written notification to FRA in accordance with § 215.69; and

(h) "State inspector" means an inspector who is participating in investigative and surveillance activities under section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435).

§ 215.7 Prohibited acts.

A railroad is subject to a penalty, as provided in Appendix D of this part, if it fails to comply with any provision of this part.

§ 215.9 Movement of defective cars for repair.

(a) If a car located within a yard has a defective component described in §§ 215.23 through 215.47, that car may only be moved as follows:

(1) A "bad order" tag describing each defect must be applied to each side of the car.

(2) The car may only be moved to a repair track, or storage track.

(3) The car may not be moved at speeds of more than 10 miles per hour.

(4) Except as provided in paragraph (b) of this section, the car may not be moved beyond the yard in which it is found to be defective.

(b) A car described in paragraph (a) of this section may be moved beyond the yard in which it is found to be defective if—

(1) It cannot be repaired in that yard; and

(2) It is moved in accordance with paragraph (c) of this section.

(c) If a car located outside a yard has a defective component described by §§ 215.23 through 215.47, that car may only be moved as follows:

(1) The car must be moved to the nearest point, or the nearest forward repair point, where the repairs can be made.

(2) The car may not be moved until the following is determined by the railroad:

(i) that it is safe to move the car.

(ii) The maximum speed, and any other restrictions, necessary for safely moving the car.

(3) The car may not be moved until the person in charge of the train in which the car is located—

(i) Is notified in writing that the car will be moved; and

(ii) Notifies all other crew members of—

(A) The presence of the defective car; and

(B) The maximum speed and other restrictions determined under paragraph (c)(2)(ii) of this section.

(4) A "bad order" tag containing the following information must be securely attached to each side of the car:

(i) The reporting mark and car number.

(ii) The name of the inspecting railroad.

(iii) The inspection location and date.

(iv) The nature of the defect and movement restrictions.

(v) The destination for shopping or repair.

(vi) The signature of the person who made the determinations required by paragraph (c)(2) of this section.

(d) If a "bad order" tag is used—

(1) The person who removes the tag must—

(i) Note on the tag the date, location, and reason for its removal; and

(ii) Sign the tag; and

(2) The railroad must—

(i) Maintain for 90 days a record or copy of each tag attached to, or removed from, a car; and

(ii) Make available to an FRA inspector, or State inspector, upon request, each record or copy it maintains under paragraph (d)(2)(i) of this section.

## Subpart B—Freight Car Components

### § 215.21 Scope

This subpart contains safety requirements prohibiting a railroad from placing or continuing in service a freight car that has certain defective components.

### Suspension System

### § 215.23 Defective wheel.

A railroad may not place or continue in service a car, if—

(a) A wheel flange on the car is worn to a thickness of ⅞ of an inch, or less, at a point ⅝ of an inch above the tread of the wheel;

(b) The height of a wheel flange on the car, from the tread to the top of the flange, is 1½ inches, or more;

(c) The thickness of a rim of a wheel on the car is $^{1}\frac{1}{16}$ of an inch, or less;

(d) A wheel rim, flange, plate, or hub area on the car has a radial crack or break;

(e) A wheel on the car has a chip in the flange that is 1½ inches in length and ½ inch in width, or more;

(f) A wheel on the car has a shell or spall that is one inch in diameter, or more, in any area;

(g) A wheel on the car has—

(1) A slid flat spot that is more than 2½ inches in length; or

(2) Two adjoining flat spots each of which is more than two inches in length;

(h) A wheel on the car shows evidence of being loose as indicated by oil seepage on the back hub, or back plate; or

(i) A wheel on the car shows signs of having been overheated as evidenced by a reddish brown discoloration, on the front or back face of the rim, that extends more than four inches into the plate area.

### § 215.25 Defective axle.

A railroad may not place or continue in service a car, if—

(a) An axle on the car has a radial crack or is broken;

(b) An axle on the car has a gouge in the surface that is—

(1) Between the wheel seats; and

(2) More than one eighth inch in depth;

(c) An axle on the car, used in conjunction with a plain bearing, has an end collar that is broken or cracked;

(d) A journal on the car shows evidence of overheating, as evidenced by a pronounced blue black discoloration; or

(e) The surface of the plain bearing journal on the axle, or the fillet on the axle, has—

(1) A ridge;

(2) A depression;

(3) A circumferential score;

(4) Corrugation;

(5) A scratch;

(6) A continuous streak;

(7) Pitting;

(8) Rust; or

(9) Etching.

### § 215.27 Defective plain bearing box: General.

A railroad may not place or continue in service a car, if the car has—

(a) A plain bearing box that does not contain visible freeoil; or

(b) The box lid is missing, broken, or otherwise not preventing contaminants from entering the box; or

(c) A plain bearing box containing foreign matter, such as dirt, sand, or coal dust, that can reasonably be expected to—

(1) Damage the bearing; or

(2) Have a deterimental effect on the lubricant in the box.

### § 215.29 Defective plain bearing box: Journal lubrication system.

A railroad may not place or continue in service a car, if the car has a plain bearing box with a lubricating pad that—

(a) Has a tear extending half the length or width of the pad, or more;

(b) Shows evidence of having been scorched, burned, or glazed;

(c) Contains any decaying or deteriorated fabric that impairs proper lubrication of the pad;

(d) Has—

(1) An exposed center core; or

(2) Metal parts contacting the journal; or

(e) Is—

(1) Missing; or

(2) Damaged to the extent that it is not in contact with the journal.

### § 215.31 Defective plain bearing.

A railroad may not place or continue in service a car, if the car has a plain bearing—

(a) That is missing, cracked, or broken;

(b) On which the bearing liner is—

(1) Loose; or

(2) Broken out; or

(c) That shows signs of having been overheated, as evidenced by—

(1) Melted babbit;

(2) Smoke from hot oil; or

(3) Journal surface damage.

### § 215.33 Defective plain bearing wedge.

A railroad may not place or continue in service a car, if a plain bearing wedge is—

(a) Missing;

(b) Cracked; or

(c) Broken.

### § 215.35 Defective roller bearing.

(a) A railroad may not place or continue in service a car, if the car has—

(1) A roller bearing that shows signs of having been overheated as evidenced by—

(i) Discoloration; or

(ii) Other tell-tale signs of overheating such as damage to the seal or distortion of any bearing component;

(2) A roller bearing with a—

(i) Loose or missing cap screw; or

(ii) Broken, missing, or improperly applied cap screw lock;

(3) A roller bearing with a loose, damaged, or non-functioning seal that permits loss of lubricant.

(b)(1) A railroad may not continue a car in service, if the car has a roller bearing that has been involved in a derailment, or submerged in water, unless that bearing has been inspected in accordance with paragraph (b)(2) of this section, and repaired if found to be defective.

(2) Each roller bearing that has been submerged in water, and each roller bearing involved in a derailment, must be disassembled from the axle for inspection unless the bearing—

(i) Was involved in a derailment at speeds of less than 10 miles per hour;

(ii) Was dragged on the ground for a distance of less than 200 feet;

(iii) Shows no external signs of damage; and

(iv) Makes no unusual bearing noise when wheel set is spun freely.

### § 215.37 Defective roller bearing adapter.

A railroad may not place or continue in service a car, if the car has—

(a) A roller bearing adapter that is cracked or broken; or

(b) A roller bearing adapter that is worn to the extent that the adapter is marking the seal assembly.

**§ 215.39 Defective freight car truck.**

A railroad may not continue in service a car, if the car has—

(a) A side frame or bolster that—

(1) Is broken; or

(2) Has a crack of one-fourth of an inch or more in the transverse direction on a tension member;

(b) A truck equipped with snubbing units, attachments, or wear plates that are worn to the extent that the snubbing—

(1) Is ineffective; or

(2) Contains snubbing units that are broken;

(c) Side bearings in any of the following conditions:

(1) A car truck side bearing assembly is missing or broken;

(2) The bearings at one end of the car, on both sides, are in contact with the body bolster, except by design;

(3) The bearings at one end of the car have a total clearance from the body bolster of more than three-fourths of an inch; or

(4) At diagonally opposite sides of the car, the bearings have a total clearance from the body bolsters of more than three-fourths of an inch.

(d) Truck springs—

(1) That do not maintain travel or load;

(2) That are compressed solid; or

(3) More than one outer spring of which is broken, or missing in the spring cluster;

(e) Interference between the truck bolster and the center plate that prevents proper truck rotations;

(f) Brake beam shelf support worn so excessively that it does not support the brake beam; or

(g) Less than 2½ inches clearance above the top of rail.

CAR BODIES

**§ 215.41 Defective car body.**

A railroad may not place or continue in service a loaded or empty car, if—

(a) Any portion of the car body has less than a 2½ inch clearance from the top of rail;

(b) The car center sill is—

(1) Broken;

(2) Cracked; or

(3) Permanently bent or buckled more than 2½ inches in any six foot length;

(c) The car has a type F coupler carrier that is—

(1) Broken; or

(2) Missing;

(d) The car is a box car, the side doors of which are not equipped with operative safety hangers, or the equivalent, to prevent the doors from becoming disengaged; or

(e) The car has a center plate that is not properly secured, or any portion of which is missing.

DRAFT SYSTEM

**§ 215.43 Defective couplers.**

A railroad may not place or continue in service a car, if—

(a) The car is equipped with a coupler shank that is bent out of alignment to the extent that the coupler will not couple automatically with the adjacent car;

(b) The car has a coupler that has a crack in the highly stressed junction area of the shank and head as shown in Figure 11 of the current part 215.

(c) The car has a coupler knuckle that is—

(1) Cracked; or

(2) Broken;

(d) The car has a knuckle pin or knuckle thrower that is—

(1) Missing; or

(2) Inoperative; or

(e) The car has a coupler retainer pin lock that is—

(1) Missing; or

(2) Broken.

**§ 215.45 Defective coupling device.**

A railroad may not place or continue in service a car, if the car has an uncoupling device without sufficient vertical and lateral clearance to prevent—

(a) Fouling on curves; or

(b) Unintentional uncouplings.

**§ 215.47 Defective draft arrangement.**

A railroad may not place or continue in service a car, if—

(a) The car has a draft gear that—

(1) Has more than one inch of free slack; or

(2) Is inoperative;

(b) The car has a broken yoke.

(c) The car has a sliding sill that is inoperative;

(d) An end of car cushioning unit is—

(1) Leaking; or

(2) Inoperative;

(e) A vertical coupler pin retainer plate—

(1) Is missing (unless by design); or

(2) Has a missing fastener; or

(f) The car has a draft key, or draft key retainer, that is—

(1) Inoperative; or

(2) Missing.

## Subpart C—Periodic Inspection

**§ 215.51 Scope.**

This subpart contains requirements applicable to the periodic inspection of railroad freight cars.

**§ 215.53 Periodic inspection: General.**

(a) A railroad may not place or continue in service any railroad freight car that has not been given a periodic inspection required by this subpart.

(b) Notwithstanding any other provision of this subpart, the following conditions must be observed:

(1) Each initial periodic inspection must be performed in accordance with § 215.59.

(2) After the initial periodic inspection is performed, a railroad may elect to perform any subsequent periodic inspection on the basis of odometer mileage, mileage records, or time intervals, but that election may only be made at the time a required periodic inspection is completed.

**§ 215.55 Periodic inspection based on odometer mileage.**

(a) Except as provided in § 215.53(b) the periodic inspection required by this subpart may be based on odometer mileage if—

(1) The car is equipped with an odometer to record the total accumulated mileage;

(2) The odometer can—

(i) Record mileage within a margin of error of three percent; and

(ii) Record accumulated mileage with the car operating in either direction;

(3) The odometer is tamper proof; and

(4) The odometer remains in the car and is maintained in effective operating condition throughout the service life of the car.

(b) A periodic inspection based on odometer mileage must be performed as follows:

(1) Except as provided in paragraph (b)(2) of this section, a car may not be operated for more than 100,000 miles without receiving a periodic inspection.

(2) A new car, or a reconditioned car, may not be operated for more than 200,000 miles without receiving periodic inspection.

**§ 215.57 Periodic inspections based on mileage records.**

(a) Except as provided in § 215.53(b), the periodic inspection required by this subpart may be based on mileage records if those records—

(1) Are accurately and currently maintained; and

(2) Reflect the total actual miles the car travels in assigned services.

(b) Periodic inspections based on mileage records shall be given in accordance with the mileage intervals specified in § 215.55(b).

**§ 215.59 Periodic inspections based on time intervals.**

(a) The periodic inspection required by this subpart may be based on the time intervals set forth in paragraphs (b) through (d) of this section.

(b) A car other than "high utilization" car must have been—

(1) Inspected within there preceding 48 months; or

(2) Originally constructed or reconditioned within the preceding 96 months.

(c) Except as provided in paragraph (d) of this section, a "high utilization" car must have been—

(1) Inspected within the preceding 12 months; or

(2) Originally constructed or reconditioned within the preceding 24 months.

(d) A "high utilization" car for which a railroad maintains and makes available to the Federal Railroad Administration a mileage record sufficient to show that the car traveled less than 25,000 miles during the preceding 12 months may be operated if that car—

(1) Meets the inspection requirements of paragraph (b) of this section; and

(2) Is stenciled in accordance with Subpart E of this part.

**§ 215.61 Extension of periodic inspection intervals.**

(a) A railroad may petition the Administrator for an extension of the periodic inspection intervals prescribed by § 215.55 through § 215.59.

(b) A petition submitted under paragraph (a) of this section must include, with respect to the cars for which the extension is sought—

(1) A description of the components used in the cars;

(2) A description of the maintenance performed on the cars;

(3) A history of the service performance of the cars, including—

(i) Wear rates of components;

(ii) Critical component failures;

(iii) Any accidents in which the cars were involved;

(iv) Any other pertinent "in service" information; and

(v) A proposed schedule for inspecting the items listed in § 215.63(b) through (l).

(c) The Administrator grants a request for extension if satisfied that the extension is justified based on the high quality of—

(1) Components used;

(2) Maintenance performed; and

(3) Performance of the cars.

(d) A request for extension will not be granted if the cars for which the request is made are—

(1) More than 20 years old; or

(2) Other than high utilization cars.

**§ 215.63 Scope of periodic inspection.**

(a) The periodic inspection required by this subpart must include an inspection of the items listed in paragraphs (b) through (l) of this section.

(b) Plain bearings must be inspected for the following defects:

(1) Wear at either end of the bearing that reduces the length of the bearing by more than one-fourth of an inch.

(2) Combined wear that reduces the length of the bearing by more than ⅜ of an inch.

(3) More than ⅛ inch of wear on a bearing lug.

(4) Combined wear on both sides of a bearing lug extension of more than ¼ of an inch.

(5) Wear on the bearing lining through the brass, more than ⅜ of an inch above the lower edge of the brass sidewall, as shown in Figure 6 of the current Part 215.

(c) Journals on plain bearing axles must be inspected for the defects due to wear beyond the limit set forth in Figure 6 of the current Part 215.

(d) Plain bearing wedges must be inspected for the following defects:

(1) Wear at the contact surfaces of the bearing wedge that has reduced the length of the wedge by more than 5/16 of an inch.

(2) A bearing wedge bottom surface unevenness of more than 1/64 of an inch.

(3) Wear on the top of a bearing wedge beyond the following limits:

| | *Wear limit flat lengthwise inches*[1] |
|---|---|
| Nominal journal size inches: | |
| 4¼ by 8 | 3¼ |
| 5 by 9 | 4 |
| 5½ by 10 | 4½ |
| 6 by 11 | 5. |
| 6½ by 12 | 5½ |

[1] Dimension C in Fig. 7 of the current Part 215.

(e) Plain bearing boxes must be inspected for defects in the—

(1) Journal

(2) Journal bearing;

(3) Wedge;

(4) Journal stop; and

(5) Box lid seal.

(f) Roller bearing adapters must be inspected for the following defects:

(1) Wear on the crown of the adapter to the extent that the frame bears on the relief portion of the adapter, as shown in Figure 8 of the current Part 215.

(2) Wear on the thrust shoulder of narrow adapters more than .025 inch on either side, as measured by Gage No. 8 in the Figure 9 of the current Part 215.

(g)(1) Car trucks must be inspected for wear on corrosion through more than 25 percent of the cross section.

(2) Surfaces in friction snubber pockets, gibs, column guides and cast integral brake beam supports, that have been worn or corroded through not more than 40 percent of the cross section may be restored to the original cross section by welding without the necessity for heat treatment, but all friction surface welds must be smooth and free of slag.

(h) Car bodies must be inspected for the following defects:

(1) Any crack in the center plate.

(2) Wear in the center plate to the extent that the clearance between the center plate and the truck bolster bowl exceeds ¼ of an inch.

(3) A break or crack in a sidesill, crossbearer, or body bolster that has caused a loss of structural integrity.

(i) Couplers must be inspected for the following defects:

(1) A coupler shank is bent out of alignment with the head by more than 9/16 of an inch.

(2) A coupler shank is worn more than 5/16 of an inch.

(3) A vertical coupler pin retainer plate is worn more than 25 percent.

(4) The distance between the coupler guard arm and the knuckle nose is more than 5 5/16 inches.

(5) A coupler lacks anticreep protection.

(6) Spring support carriers—

(i) Are not operative;

(ii) Have one or more broken springs; or

(iii) Do not maintain sufficient spring capacity to support the coupler at a height of between 31½ inches and 34½ inches.

(j) Uncoupling devices must be inspected for a defective lever, on a bottom operated coupler, having a clearance of less than ¼ of an inch between the operating rod eye and the locklift lever when—

(1) The coupler is centered; and

(2) The knuckle is fully closed and locked.

(k) Draft arrangements must be inspected for the following defects:

(1) A transverse crack in a corner of a yoke strap.

(2) A yoke strap worn through more than 25 percent of its cross section area.

(3) A missing (except by design) or broken—

(i) Follower plate;

(ii) Draft lug; or

(iii) Fastener.

(4) A draft key worn more than 25 percent.

(5) A draft gear that—

(i) Is worn to the extent that it is inoperative; or

(ii) Has a support plate that is worn through more than one half of its cross section area.

(l) Cushioning units must be inspected for the following defects:

(1) An end of car unit with support plates is worn more than 25 percent.

(2) A key retainer is missing.

(3) A restraining mechanism is inoperative.

(4) A sliding sill is bent to the extent that it will not slide freely on a guide.

(5) A sliding sill restoring arrangement is inoperative.

(6) A hydraulic cushioning unit—

(i) Is leaking oil; or

(ii) Has a friction unit that is worn to the extent that the unit is ineffective or inoperative.

§ 215.65 Detrucking of cars.

During the periodic inspection required by this subpart—

(a) Each car must be detrucked; and

(b) Each truck must be disassembled to the extent necessary to fully examine each component described by this subpart.

§ 215.67 Repair or replacement of defective components.

If a component described in §§ 215.23 through 215.47, or in § 215.63, is discovered to be defective during a periodic inspection required by this subpart, that component must be repaired or replaced before the car is returned to service.

§ 215.69 Facilities where periodic inspections may be conducted.

(a) The periodic inspection required by this subpart must be conducted by a railroad at a facility which has the equipment needed to perform the inspection.

(b) The stenciled information required by § 215.95 relating to the periodic inspection may be affixed only—

(1) By the railroad which conducted the inspection;

(2) At the facility where the inspection was conducted; and

(3) After completion of the inspection.

(c) (1) A railroad described in subparagraph (2) of § 215.5(g) which conducts any periodic inspection must have on file with the Associate Administrator for Safety, FRA, a current statement of election to become subject to this part.

(2) The statement of election must be submitted to the Associate Administrator for Safety (RRS-25), FRA, Washington, D.C. 20590. Filing of a statement of election is complete or acknowledgement by FRA that the statement has been received and contains the information required.

(3) When FRA acknowledges receipt of a properly executed statement of election, FRA assigns an identifying stencil code which must be used as the railroad identification for purposes of Subpart E of the part.

(4) A statement of election may be withdrawn by written request submitted to the Associate Administrator for Safety by registered or certified mail.

§ 215.71 Reconditioned cars.

(a) For the purpose of this subpart, a car is considered "reconditioned" if it—

(1) Is equipped with roller bearings;

(2) Is less than 20 years old, as measured from the date it was originally built; and

(3) Complies with the requirements set forth in paragraph (b) of this section.

(b) A car is not considered "reconditioned" unless it meets the following requirements:

(1) The wheels on the car shall—

(i) Be in compliance with § 215.23; and

(ii) Have not less than 50 percent of useful tread wear remainig.

(2) All truck side frames shall be free of cracks described as defects under § 215.39.

(3) All truck bolsters shall be free of cracks described as defects in § 215.39.

(4) There shall be sufficient vertical clearance between the center plate and body bolster to ensure that no binding will occur.

(5) Welds or fasteners used to attach the center plate to the body bolster shall comply with the following, as applicable:

(i) Welds shall be free of cracks.

(ii) Fasteners shall be securely fastened.

(6) Snubbing units shall have—

(i) Available friction material; or

(ii) Not less than 75 percent of their usable service metal.

(7) Hydraulic snubbing units, used in conjunction with truck springs, shall be—

(i) Operative; and

(ii) Free of defects, including leakage of hydraulic fluid

(8) Draft gears shall—

(i) Be operative; and

(ii) Have friction metal surfaces with sufficient material to ensure that the gears will function at their rated capacities.

(9) Cushioning units shall—

(i) Be operative; and

(ii) Have no evidence of—

(A) Excessive wear on supporting surfaces; or

(B) Leakage of hydraulic fluid used in the cushioning system.

(10) Couplers shall be free of cracks described as defects in § 215.43.

(11) The components in the car body underframe, in critical structural areas, shall be free of cracks.

(12) Each door on the side of the car shall be equipped with safety attachments to prevent the door from disengaging from the car.

(13) The following car components must be new or the equivalent in quality:

(i) Truck side frame wear surfaces, including wear plates.

(ii) Center plate bowls.

(iii) Side bearings

(iv) The center plate attachment to the underframe.

(v) Bolster gibs.

(vi) Truck springs.

(vii) Draft gears, pockets, and attachments.

(viii) Couplers, including wear surfaces, which must be restored to their original dimensions.

(ix) Door attachments, including tracks.

(c) A car may be classified as "reconditioned" only at the time it is given a periodic inspection.

## Subpart D—Prohibited and Restricted Equipment

§ 215.81 Scope.

This subpart contains requirements prohibiting or restricting the use of certain railroad freight cars.

§ 215.83 Prohibited cars.

A railroad may not place or continue in service a railroad freight car equipped with any design or component described in Section I of Appendix B to this part.

§ 215.85 Restricted cars.

(a) This section restricts the operation of any railroad freight car that is—

(1) More than 50 years old, measured from the date of original construction;

(2) Equipped with any design or type component listed in section II of Appendix B to this part; or

(3) Equipped with a Duryea underframe constructed before April 1, 1950, except for a caboose which is operated as the last car in a train.

(b) A railroad may not continue in service a railroad freight car described in paragraph (a) of this section, except under conditions approved by the Federal Railroad Administrator.

(c)(1) A railroad may petition the Administrator to continue in service a car described in paragraph (a) of this section.

(c)(2) Petitions must—

(i) Be submitted not less than 90 days before the car is to be operated;

(ii) Be submitted in triplicate; and

(iii) State or describe the following:

(A) The name and principal business address of the petitioning railroad.

(B) The name and address of the entity that controls the operation and maintenance of the car involved.

(C) The number, type, capacity, reporting marks, and car numbers of the cars, their condition, status, and age measured from the date of original construction.

(D) The design, type component, or other item that causes the car to be restricted.

(E) The maximum load the cars would carry.

(F) The maximum speed at which the cars would be operated.

(G) That each car has been examined and found to be safe to operate under the conditions set forth in the petition.

(d) Petitions submitted under paragraph (c) of this section are subject to the following:

(1) Within 45 days after receipt of the petition, the Administrator notifies the railroad of a decision.

(2) The railroad may petition the Administrator to reconsider the decision.

(3) A petition for reconsideration shall be filed within 30 days after the railroad receives notice of the decision.

(e) The Administrator does not grant a petition to continue in service a car described in paragraph (a) of this section, if—

(1) The car is used in interchange service; or

(2) The car is—

(i) Used to transport commodities identified by the Hazardous Materials Regulations in Parts 170–189 of this title; and

(ii) Required to be placarded under Subpart C of Part 174 of this title.

### Subpart E—Stenciling

**§ 215.91 General.**

The railroad or private car owner reporting mark, the car number, and built date shall be stenciled, or otherwise displayed, in clearly legible letters and numbers not less than seven inches high except those of built date which shall not be less than one inch high—

(a) On each side of each railroad freight car body; and

(b) In the case of a tank car, in any location that is visible to a person walking at track level along side the car.

**§ 216.93 Stenciling of restricted cars.**

(a) Each restricted railroad freight car that is described in § 215.85(a) of this part shall be stenciled, or marked—

(1) In clearly legible letters; and

(2) In accordance with paragraphs (b) and (c) of this section.

(b) The letter "R" shall be—

(1) Placed immediately below or to the right of the car number;

(2) The same color as the reporting mark; and

(3) The same size as the reporting mark.

(c) The following terms, to the extent needed to completely indicate the basis for the restricted operation of the car, shall be placed on the car following the symbol "R" in letters not less than one inch high:

(1) Age.
(2) Coupler.
(3) Draft.
(4) Bearings.
(5) Truck.
(6) Underframe.
(7) Wheels.
(8) Yoke.

**§ 215.95 Stenciling of cars receiving a periodic inspection.**

(a) The following information shall be stenciled on each car that has received a periodic inspection under § 215.55, based on odometer mileage:

(1) If the car has been reconditioned—

(i) The date the car was last reconditioned; and

(ii) The location where the car was last reconditioned.

(2) The date of the last periodic inspection.

(3) The mileage at the time the last periodic inspection was performed.

(4) The location at which the last periodic inspection was performed.

(5) The name or assigned stencil code of the railroad that performed the last periodic inspection.

(6) The mileage indicating when the next periodic inspection is required.

(b) The following information shall be stenciled on each car that has received a periodic inspection, under § 215.57, based on mileage records:

(1) If the car has been reconditioned,

(i) The date the car was last reconditioned; and

(ii) The location where the car was last reconditioned.

(2) The date of the last periodic inspection.

(3) The name or assigned stencil code of the railroad that performed the last periodic inspection.

(4) The estimated date on which the next inspection will be required.

(c) The following information shall be stenciled on each car that has received a periodic inspection, under § 215.59, based on time intervals:

(1) If the car has been reconditioned—

(i) The date the car was last reconditioned; and

(ii) The location where the car was last reconditioned.

(2) The date of the last periodic inspection.

(3) The location at which the last periodic inspection was performed.

(4) The name or assigned stencil code of the railroad that performed the last periodic inspection.

(d) The following information must be stenciled on each car that has received a periodic inspection under § 215.61, based on an approved extension of a periodic inspection interval:

(1) If the car has been reconditioned—

(i) The date the car was last reconditioned; and

(ii) The location where the car was last reconditioned.

(2) The date of the last periodic inspection.

(3) The name or assigned stencil code of the railroad that reconditioned the car.

(4) The estimated date on which the next inspection will be required, if the inspection will be based on mileage records, or the mileage indicating when the next periodic inspection will be due, if the inspection will be based on odometer mileage.

**§ 215.97 Periodic inspection: Type of stenciling required.**

The information required by § 215.95 shall be applied to the car as follows:

(a) It shall be stenciled, or otherwise displayed, in a tabular form as described in Appendix C of this part.

(b) It shall be stenciled, or otherwise displayed, in clearly legible letters and numbers not less than one inch high.

(c) It shall be stenciled, or otherwise displayed, near either end on each side of each railroad freight car body.

**§ 215.99 Stenciling of cars used in work train service.**

(a) Each car used exclusively in work train service shall be stenciled, or marked—

(1) In clearly legible letters; and

(2) In accordance with paragraphs (b) and (c) of this section.

(b) The letters "MW" must be—

(1) Placed adjacent to the car number on each side of the car; and

(2) The same size as the reporting mark.

(c) The words "FRA EXEMPT" must be—

(1) Placed on the car immediately following the letters "MW"; and

(2) Not less than three inches high.

(Secs. 202, 208, and 209, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 437, and 438); Sec. 1.49(n), Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).)

Issued in Washington, D.C., on December 29, 1978.

JOHN M. SULLIVAN,
*Administrator.*

[FR Doc. 79-432 Filed 1-4-79; 8:45 am]

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[4310-55-M]

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[50 CFR Part 26]

### RUBY LAKE NATIONAL WILDLIFE REFUGE, NEV.

### Public Entry and Use; Proposed Special Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed special regulations.

SUMMARY: This rule proposes special regulations governing boating use at the Ruby Lake National Wildlife Refuge. The intent is to establish

boating regulations consistent with the primary purposes for which the refuge was established by setting opening dates and horsepower limitations for boats.

DATES: Comments must be received on or before February 5, 1979. The proposed effective period of these special regulations will be (30 days from the date of publication of the final rule) to December 31, 1979.

ADDRESS: Send comments to: Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2740, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT:

Patrick L. O'Halloran, Area Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2740, Sacramento, California 95825, telephone: 916-484-4664.

SUPPLEMENTARY INFORMATION: The primary author of this document is Lawrence G. Kline.

BACKGROUND

Final regulations for 1978 were published in the FEDERAL REGISTER on April 21, 1978 (43 FR 16981). On June 29, 1978, a lawsuit was filed in the United States District Court, Washington, D.C., against the Secretary of the Interior, the Assistant Secretary for Fish and Wildlife and Parks, and the Director, Fish and Wildlife Service, by the Defenders of Wildlife, et al., (Civil Action No. 78-1210). Following two days of trial on the matter, the District Court on July 11 declared the April 21 regulations invalid because the Secretary failed to make a finding that the permitted recreational use would not be inconsistent with the primary purposes for which the refuge was established.

Revised regulations for 1978 were published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32133). These regulations were also challenged in an action brought by the Defenders of Wildlife (Civil Action No. 78-1332), and on August 18 were declared invalid by the District Court. The Secretary was then ordered to issue new regulations within 15 days "which permit secondary uses of Ruby Lake only insofar as such usages are not inconsistent with the primary purposes for which the refuge was established." Such regulations were issued on September 7, 1978 (43 FR 39798).

The Ruby Lake Migratory Waterfowl Refuge (now known as Ruby Lake National Wildlife Refuge) was established by Executive Order No. 7923, dated July 2, 1938, "for the use of the Department of Agriculture as a refuge and breeding ground for migratory birds and other wildlife." The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

DISCUSSION

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Ruby Lake National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Environmental Impact Assessment published in June 1976, public comment received on earlier proposed rules, public comment on the assessment, and the evidence presented during litigation of the court cases cited herein. Funds are available for the administration of the recreational activities permitted by these regulations.

As provided by 50 CFR 26.33, the Service hereby issues the following proposed regulations:

**§ 26.34 Special regulations concerning public access, use and recreation for Ruby Lake National Wildlife Refuge, Nevada.**

Beginning on June 15, 1979, and continuing until December 31, 1979, motorless boats and boats with electric motors will be permitted only on that portion of the Ruby Lake National Wildlife Refuge known as the South Sump. Beginning on August 1, 1979, and continuing until December 31, 1979, boats with a single motor rated 10 horsepower or less will also be permitted on the South Sump of the refuge. Water skiing or the use of jet skis will not be permitted. Boats may be launched only from landings approved and designated by the Refuge Manager.

Maps depicting the South Sump are available from the Refuge Manager and are posted at the boat landings. Copies of the maps can also be obtained from: (1) the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Northeast Multnomah Street, Portland, Oregon 97232; and (2) the Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-2830, Sacramento, California 95825.

NOTE.—The Department has determined that this document is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044.

Dated: December 4, 1978.

WILLIAM D. SWEENEY,
*Area Manager, California-Nevada, U.S. Fish and Wildlife Service.*

[FR Doc. 79-461 Filed 1-4-79; 8:45 am]

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[3510-22-M]

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[50 CFR Part 662]

### PROPOSED AMENDMENT TO EIS/FMP FOR NORTHERN ANCHOVY FISHERY MANAGEMENT PLAN

#### Correction to Notice of Public Hearing

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Amendment to notice of public hearing.

SUMMARY: The Pacific Fishery Management Council will conduct a public hearing at its January meeting to receive input on a proposed amendment to the Environmental Impact Statement/Fishery Management Plan for Northern Anchovy for the 1979-80 fishing season. The following information was omitted from the notice (43 FR 60970): In addition the proposed amendment would specify information to be collected from domestic anchvoy processors and revise the formula for annual determination of the total allowable level of foreign fishing.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S. W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Signed in Washington, D.C., this 28th day of December, 1978.

WINFRED H. MEIBOHM,
*Acting Executive Director, National Marine Fisheries Service.*

[FR Doc. 79-435 Filed 1-4-79; 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.

[3410-34-M]

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### CONTAGIOUS EQUINE METRITIS (CEM)

### Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this document is to give notice of an informal public meeting concerning the possibility of establishing conditions for the importation of stallions and other male equidae into the United States from countries infected with contagious equine metritis (CEM) following certain procedures heretofore not recognized by the United States Department of Agriculture.

PLACE, DATE AND TIME OF MEETING: Room 2096, South Building, Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C., January 12, 1979, at 1:30 p.m. to 3:30 p.m.

SUPPLEMENTAL INFORMATION: This meeting is sponsored by the Department of Agriculture for the purpose of exchanging views and information relating to the feasibility of establishing conditions for the importation of stallions and other male equidae from countries infected with CEM following procedures heretofore not recognized by the United States Department of Agriculture. The scrubbing and packing procedures outlined in the Kentucky Code of Practice for CEM will serve as the basis for this discussion. An APHIS representative will serve as chairman at this informal public meeting, and an agenda will be prepared to outline background information. Certain presentations by Agency personnel will be scheduled at this meeting to provide resource information.

This meeting is open to the public. Written statements concerning this matter may be filed with the Department of Agriculture on or before January 12, 1979.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 739, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Further information may be obtained from the written statements may be submitted to Dr. R. C. Knowles, Chief, Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, Veterinary Services, APHIS, USDA, Room 739, Federal Building, Hyattsville, MD 20782, 301-436-8434.

Dated: January 3, 1979.

M. T. GOFF,
*Acting Deputy Administrator, Veterinary Services.*

[FR Doc. 79-586 Filed 1-4-79; 8:45 am]

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[3410-30-M]

### Food and Nutrition Service

### SCHOOL BREAKFAST PROGRAM

### National Average Payment for the Period January 1 to June 30, 1979

Pursuant to Section 11 of the National School Lunch Act (42 U.S.C. 1759a) and § 220.4 and § 220.9 of the regulations governing the School Breakfast Program (7 CFR Part 220), notice is hereby given that the national average payment factors for breakfasts served during the six-month period January 1-June 30, 1979, to children participating in the School Breakfast Program shall be: (a) 12.75 cents for all breakfasts; (b) an additional 23.75 cents for each reduced price breakfast, and (c) an additional 31.75 cents for each free breakfast. The total amount of breakfast assistance payments to be made to each State agency from the sums appropriated therefor, shall be based upon such national average factors: *Provided, however,* That additional payments shall be made in such amounts as are needed to finance reimbursement rates assigned for especially needy schools under § 220.9

The above factors represents a 4.82 percent increase in the factors prescribed for the period July 1-December 31, 1978. This represents the percent of increase during the six-month period May-December 1978 (from 215.6 in May to 226.0 in November) in the series for food away from home of the Revised Wage Earners and Clerical Workers Price Index, published by the Bureau of Labor Statistics of the Department of Labor.

For non-especially needy schools, the maximum rates of reimbursement for paid breakfasts, for reduced price breakfasts, and for free breakfasts shall be equal to the respective factors set out above.

For especially needy schools, the maximum rates of reimbursement are established pursuant to Section 4(b) of the Child Nutrition Act of 1966 as amended by Public Law 95-166, the National School Lunch Act and Child Nutrition Amendments of 1977. This law requires that these rates be computed using two methods and that the method yielding the higher rates be used. Accordingly, for especially needy schools, the maximum rate of reimbursement for paid breakfasts shall be equal to the national average factor for all breakfasts, and the maximum rate of reimbursement for reduced price and free breakfasts shall be 49.50 and 54.50 cents, respectively.

*Definitions.* The terms used in this notice shall have the meanings ascribed to them in the regulations governing the School Breakfast Program (7 CFR Part 220) and the regulations for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.553)

*Effective date:* This notice shall be effective as of January 1, 1979.

AUTHORITY: Pub. L. 93-150; 87 Stat. 561; 42 U.S.C. 1760a.

Dated: December 29, 1978.

CAROL TUCKER FOREMAN,
*Assistant Secretary for Food and Consumer Services.*

[FR Doc. 79-367 Filed 1-4-79; 8:45 am]

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[3410-30-M]

### NATIONAL SCHOOL LUNCH PROGRAM

### National Average Payment for the Period January 1 to June 30, 1979

Pursuant to Section 11 of the National School Lunch Act (42 U.S.C. 1759a) and § 210.4 and § 210.11 of the regulations governing the National School Lunch Program (7 CFR Part 210), notice is hereby given of adjustments in the national average factors

for payment for lunches and the maximum rates of reimbursements. The national average factors for payment for lunches served during the six-month period January 1–June 30, 1979, to children participating in the National School Lunch Program are as follows: (a) 15.75 cents from general cash-for-food assistance funds for each lunch; (b) an additional 51.50 cents from special cash assistance funds for each reduced price lunch, and (c) an additional 71.50-cents from special cash assistance funds for each free lunch. If in any State a maximum charge to students of less than 20 cents is established for reduced price lunches, the special assistance factor prescribed for reduced price lunches in such State shall be the lesser of (a) the special assistance factor for free lunches minus the maximum reduced price charge established by the State, or (b) the special assistance factor for free lunches minus 10 cents.

The total amount of general cash-for-food assistance payments and special cash assistance payments to be made to each State agency from the sums appropriated therefor, shall be based upon such national average factors.

The above factors represent a 4.82 percent increase in the factors prescribed for the period July–December 1978. This represents the percent of increase during the six-month period May–November 1978 (from 215.6 in May 1978 to 226.0 in November 1978) in the series for food away from home of the Revised Wage Earners and Clerical Workers Price Index, published by the Bureau of Labor Statistics of the Department of Labor.

For the six-month period January 1–June 30, 1979, (a) the maximum rate of reimbursement from general cash-for-food assistance funds shall be 21.75 cents per lunch served; (b) the maximum per lunch reimbursement (from a combination of general cash-for-food assistance and special cash assistance funds) shall be 102.25 cents for a free lunch and 82.25 cents for a reduced price lunch. If in any State a maximum charge to students of less than 20 cents is established for reduced price lunches, the maximum per lunch reimbursement prescribed for reduced price lunches in such State shall be the lesser of (a) maximum per lunch reimbursement for free lunches minus the maximum reduced price charge established by the State, or (b) the maximum per lunch reimbursement for free lunches minus 10 cents.

*Definitions.* The terms used in this notice shall have the meanings ascribed to them in the regulations governing the National School Lunch Program (7 CFR Part 210) and the regulations for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.555.)

*Effective date:* This notice shall be effective as of January 1, 1979.

AUTHORITY: Pub. L. 93-150; 87 Stat. 561; 42 U.S.C. 1760a.

Dated: December 29, 1978.

CAROL TUCKER FOREMAN,
*Assistant Secretary for Food and Consumer Services.*

[FR Doc. 79-366 Filed 1-4-79; 8:45 am]

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[3410-11-M]

**Forest Service**

## SPECIAL SALVAGE TIMBER SALE PROGRAM

**Forest Service Policy**

AGENCY: Forest Service, USDA.

ACTION: Final Policy.

SUMMARY: This document sets forth policy and procedures for administering a set-aside program of preferential awards to small business firms bidding on designated special salvage timber sales. The program is to be based on a special size standard for loggers and other small forest products firms promulgated by the Small Business Administration. The policy will become part of the Forest Service Manual.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Jim Beavers or George Leonard, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: On October 20, 1978, the Acting Chief, USDA Forest Service, published a proposed policy (43 FR 49028) which set forth operating procedures for administering a program of preferential awards to small business firms bidding on designated Special Salvage Timber Sales (SSTS). The adopted policy, set forth below, is essentially the same as that proposed.

The Forest Service and the Small Business Administration (SBA) have agreed to pilot-test the SSTS program on the following National Forests: Gallatin—Montana; Panhandle—Idaho; Mt. Baker-Snoqualmie—Washington; Willamette, Rogue, Deschutes, and Mt. Hood—Oregon; Stanislaus, Shasta-Trinity, and Plumas—California. Adjustments of Forests included in the pilot-test may be made if necessitated by program changes.

SUMMARY OF COMMENTS: Most comments received supported the proposed SSTS program There were concerns expressed, however, about several aspects of the proposal. Application of the 30/70 manufacturing requirement was questioned by several respondents. This requirement, that no more than 30 percent of the sale volume can be sold to firms with more than 500 employees, was a major area of concern at public meetings held prior to publication of the proposal. Fears were expressed by small business manufacturers that failure to include the 30/70 requirement would jeopardize their opportunity to purchase needed timber supplies. On the other hand, loggers and some manufacturers stressed the importance of market flexibility. The adopted policy provides for general application of the 30/70 requirement except in areas where it is determined that the purchaser of the SSTS sale would not have a competitive market for the logs if the requirement were applied. The Forest Service and SBA expect to monitor application of the 30/70 requirement closely during the pilot-test period to determine its impact on both firms qualified under the SSTS program and other firms.

Several respondents objected to including sales set aside under the SSTS program in the 6-month analyses for the 500-employee small business set-aside program. Volumes purchased by nonmanufacturers have historically been credited in the 6-month analyses for the 500-employee program. No change in this procedure is contemplated. Consideration was given to excluding volumes offered under the SSTS program. However, when it was decided that the 30/70 manufacturing requirement would generally apply, it was necessary to continue to credit these sales in the 6-month analysis in order to be equitable to all sizes of business.

Concern was also expressed that there was no assurance that the SSTS program would result in the harvest of additional volumes of salvage material. Consideration was given to establishing historic salvage levels for each Forest and then making only volumes in excess of this level eligible for the SSTS program. However, the levels of salvage programs tend to fluctuate rather widely in response to weather conditions, insect activity, market conditions, and levels of financing. It appeared that using such a formula approach could lead to uncertainty over the level of the program which could be maintained. This uncertainty would make it especially difficult for the small operators to plan their operations. The decision was, therefore, made to tie the SSTS program to the salvage fund provided by the National

Forest Management Act of 1976 (NFMA). This is a new source of funding, over and above that available under regular appropriations. This source of funding, which really becomes available in significant amounts for the first time this year, is providing an increase in the overall level of salvage sales. Thus, by setting aside some of the sales funded by the NFMA salvage fund for the SSTS program, there is assurance that the program will operate on volumes in excess of what has previously been available.

The following will be added to the Forest Service Manual:

*2438—Special Salvage Timber Sale Program.* The Special Salvage Timber Sale Program (SSTS) is a joint program administered by the Forest Service and the Small Business Administration (SBA). It provides for preferential award of certain salvage sales, funded under Section 14(h) of the National Forest Management Act of 1976, to loggers and forest products concerns qualified under size standards promulgated by the SBA. Initially, the program will be tested on a limited number of Forests. Following an evaluation period, it is anticipated that the program will be expanded nationwide. The two Agencies plan to monitor it closely in order to be sure that it meets its objectives and does not adversely affect volumes available to small or large munufacturing concerns. Sawtimber in sales with an advertised value of $2,000 or more which are set aside under the SSTS program will be included in establishing shares and in 6-month analyses as provided in the 1971 USDA/SBA Agreement. However, sawtimber volume in SSTS sales over $2,000 awarded to nonmanufacturing concerns will be credited to the size of concern purchasing the volume for manufacture.

*2438.1—Authority*—The Small Business Act (15 U.S.C. 631) provides authority for the use of set-aside sales to ensure that a fair proportion of the total sales of government property be made to small business firms. SBA, acting under authority of the Small Business Act, has established a small business size standard which defines firms eligible for preferential award on salvage sales. The program operates under the general framework of the USDA/SBA Agreement of December 1971.

*2438.2—Objective*—In order to promote the optimum use of wood material, the National Forest Management Act authorized the establishment of a revolving fund to cover the cost of preparing and administering sales of insect-infested, dead, damaged or down timber. The intent of this fund was to provide for increasing the sales of such timber. The Special Salvage Timber Sale Program will operate on a portion of the additional Volume of timber funded under this authority.

*2438.3—Eligible Firms*—For the purposes of the Special Salvage Timber Sale Program, the SBA defines a small business as a concern that:

1. Is primarily engaged in the logging or forest products industry.
2. Is independently owned and operated.
3. Is not dominant in its field of operation.
4. Together with its affiliates, its number of employees has not exceeded 25 persons during any pay period for the past 12 months.

*2438.4—Eligible Sales*—Sales meeting all of the following criteria may be set-aside for preferential bidding by small business:

1. Sale preparation financed with salvage sale funds or with funds intended as "seed money' for the salvage sale fund. Where a mix of appropriated and salvage sale funds has been used, more than 50 percent of the estimated preparation cost shall have been paid with salvage sale funds.
2. Sale period no more than 1 year.
3. Sale involves only minor road construction or reconstruction.
4. Sale does not involve catastrophic damage, such as fire or windstorm.

Generally, salvage sales meeting the above criteria will be set-aside, unless experience demonstrates that competitive bidding by small loggers and small forest products firms cannot be expected. Relatively small sales are preferred. However, there is no size limit on the sale, provided it can be completed by loggers of average capability in the area. Larger sales suitable for logging by only one or two operators in the area should be avoided so as to prevent allocation to individual firms.

When fire, windstorm, or other catastrophic losses occur, the total capacity of the tributary industry is often needed to salvage the timber in a timely manner. Therefore, such sales are not eligible to be set-aside under this program. A catastrophic loss is a loss resulting from a single, identifiable event which affects volume of more than 10 percent of the volume planned for sale on the affected District within any 6-month period or 1 million board feet, whichever is less. As a general rule, the size of the program in any locality should be geared to the existing capability of the local qualifying firms.

*2438.41—Selection Process*—Forest Supervisors administering salvage sale programs will, after considering such advice as the SBA representative may offer, select sales to be set-aside for preferential bidding by concerns with less than 25 employees and notify the SBA field representative using SBA Form 441 to document the selection process. Each sale selected will be specifically defined as to whether the 30-70 log distribution requirement is or is not required on sawlog volume from that sale (see 2438.5). The SBA field representative will sign and return a copy of form 441 to indicate its concurrence in the selection.

In the event the SBA field representative disagrees on whether or not a proposed sale should be set-aside or whether 30-70 manufacturing requirements shall apply, the matter shall be promptly referred to the Regional Forester for review. Because of the need for prompt action on salvage sales, failure of the Agencies' representatives to agree should not result in delay of the sale. Lacking agreement, the sale should be advertised as an open sale. However, if the SBA field representative or the Regional Forester believes that policy issues relating to the operation of the program are involved, either may seek review of the policy issues, without delay of the particular sale, by higher authorities within the Agencies. It is the intent of the Agencies that the program be a joint program and Forest Supervisors will make every effort to work cooperatively with SBA field representatives.

If a set-aside is agreed upon and the Forest Supervisor determines that it is no longer advisable, or if a new sale is proposed after agreement on the 6-month program, the Forest Supervisor will consult with the SBA representative following the same procedures as outlined above.

*2438.5—Contract Conditions*—The Forest Service and SBA expect to make annual reviews during the first 3 years of the Special Salvage Timber Sale Program, so that adjustments can be made as necessary to insure that the program objectives are met. In order to facilitate this review, contracts for set-aside salvage sales shall require the purchaser to provide the Forest Service with an accounting of log deliveries by 6-month periods. Data to be furnished shall include volume and species delivered, the point of delivery, and the name and affiliation of the party to whom the logs were sold. The contract shall also require the purchaser to make his records, including payroll records, available to the Forest Service and SBA to verify his eligibility for participation in the program.

Timber sold under the special salvage timber sale program will generally be offered subject to 30-70 manufacturing requirements (see FSM 2431.19) unless the Forest Supervisor determines the purchaser of the sale will not have a competitive market for logs available from qualified small business firms. A competitive market would involve two or more qualified manufacturing firms which have demonstrated interest in the types (spe-

cies, size, condition) of logs to be produced on the salvage sale. The firms should have the capacity to handle the volumes involved and be located within the normal log haul distance from the proposed sale. The Forest Supervisor will consult with the SBA field representative in determining whether sales shall be subject to the 30/70 manufacturing requirement.

*2438.6—Size Protests*—Instructions set forth in FSM 2431.19 govern procedures for responding to size protests. It is important to notify SBA of the nature of the sale so that appropriate priority can be assigned to resolving the protest.

Dated: December 26, 1978.

JOHN R. MCGUIRE,
*Chief, Forest Service.*

[FR Doc. 79-424 Filed 1-4-79; 8:45 am]

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[3410-16-M]

**Soil Conservation Service**

**CROWDABOUT CREEK WATERSHED PROJECT, ALABAMA**

**Intent Not To File an Environmental Impact Statement for Deauthorization of Funding of the Crowdabout Creek Watershed**

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of funding of the Crowdabout Creek Watershed project, Morgan, Lawrence, and Cullman Counties, Alabama.

The environmental assessment of this action indicates that deauthorization of funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project plan provided for accelerated technical assistance for application of land treatment measures, installation of eight floodwater retarding structures, and 150,900 linear feet of channel improvement.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency.

Crowdabout Creek Watershed Project, Alabama, Notice of Intent Not to File an Environmental Impact Statement for Deauthorization of Funding

The basic data developed during the environmental assessment is on file and may be reviewed by interested parties by contacting Mr. William B. Lingle, State Conservationist, P.O. Box 311, 138 South Gay Street, Auburn, Alabama 36830, 205-821-8070. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests at the above address.

No administrative action on the proposal will be taken until March 6, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: December 22, 1978.

EDWARD E. THOMAS,
*Assistant Administrator for Land Resources.*

[FR Doc. 79-401 Filed 1-4-79; 8:45 am]

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[3410-16-M]

**DARRS CREEK WATERSHED, TEXAS**

**Deauthorization of Federal Funding**

Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Darrs Creek Watershed project, Bell County, Texas, effective on December 5, 1978.

The notice of intent not to file an environmental impact statement for deauthorization of Federal funding was published on October 5, 1978. Appropriate committees of Congress and concerned local, State, and Federal agencies were notified of the proposed deauthorization at least 60 days prior to the effective date. No objections to deauthorization or expressions of support to complete the project have been made known to the soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: December 21, 1978.

EDWARD E. THOMAS,
*Assistant Administrator for Land Resources, Soil Conservation Service.*

[FR Doc. 79-400 Filed 1-4-79; 8:45 am]

[3410-15-M]

**Rural Electrification Administration**

**PLAINS ELECTRIC GENERATION & TRANSMISSION COOPERATIVE, INC.**

**Draft Environmental Impact Statement**

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with possible financing assistance for Plains Electric Generation and Transmission Cooperative, Inc., 2401 Aztec Road, N.E., Albuquerque, New Mexico 87107.

The anticipated financing assistance would provide Plains with the financing required for the construction of a 38 mile 345 kV transmission line between Plains' Taos substation, located in Taos County, New Mexico, located and the Ojo substation of the Public Service Company of New Mexico, located in Rio Arriba County, New Mexico. This proposed project will provide additional transmission capacity to meet the projected future growth in peak electric demand of three of Plains' member distribution cooperatives located in the northern portion of Plains' service area.

Additional information may be obtained from Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Comments are invited from the public and particularly from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality Guidelines. Limited supplies of this document are available for mailing upon request. The Draft 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, S.W., Washington, D.C., Room 4314 or at the headquarters of Plains Electric Generation and Transmission Cooperative, Inc., whose address is given above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Richter at the address given above. Comments must be received within 60 days of the date of publication of this notice to be considered in connection

with the proposed financing assistance.

Any financing assistance by REA pursuant to this proposed project will be subject to, and release of funds thereunder will be contingent upon REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with Environmental Statement procedure required by the National Environmental Policy Act of 1969, and procedures required by other environmentally related statutes, regulations, and Executive Orders.

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

ROBERT W. FERAGEN,
*Administrator, Rural Electrification Administration.*

[FR Doc. 79-495 Filed 1-4-79; 8:45 am]

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[6335-01-M]

## COMMISSION ON CIVIL RIGHTS

### COLORADO ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 12:00 p.m. on January 20, 1979, 1405 Curtis Street, Room 1706, Executive Tower, Denver, Colorado 80202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Executive Tower Inn, Denver, Colorado 80202.

The purpose of this meeting is to discuss and plan for next Colorado SAC project-Energy Handbook.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., January 3, 1979.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc. 79-590 Filed 1-4-79; 8:45 am]

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[6335-01-M]

### ILLINOIS ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 3:00 pm on January 22, 1979, 230 South Dearborn Street, Room 3280, Chicago, Illinois 60604.

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

The purpose of this meeting is to report from Regional SAC Chairpersons Conference (12/15/78), Up-date on Insurance-Redlining Follow-up, Chicago Desegregation Report, and Special Education Report.

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

Dated at Washington, D.C., January 2, 1979.

JOHN I. BINKLEY,
*Advisory Committee Management Officer.*

[FR Doc. 79-486 Filed 1-4-79; 8:45 am]

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[6335-01-M]

### OHIO ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 3:00 pm on January 27, 1979, Netherland Hilton, 5th and Race Streets, Cincinnati, Ohio 45201.

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

The purpose of this meeting is to discuss Report from Regional SAC Chairperson Conference, Report on Administration of Justice/Police Project Interviews, and discussion of project proposal.

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

Dated at Washington, D.C., January 2, 1979.

JOHN I. BINKLEY,
*Advisory Committee ManagementOfficer.*

[FR Doc. 79-487 Filed 1-4-79; 8:45 am]

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[6335-01-M]

### PHILADELPHIA HEARING

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that public hearings of the U.S. Commission on Civil Rights will commence on February 6, 1979 in Room 3306 of the Green Federal Building at Sixth and Arch Streets, Philadelphia, Pennsylvania and on February 20, 1979 at the Federal Building, 300 Spring Garden Street, Philadelphia, Pennsylvania. An executive session, if appropriate, may be convened at any time before or during the hearings.

The purpose of the hearing is to collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices; to appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices; and to disseminate information with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice, particularly concerning police practices.

Dated at Washington, D.C., January 2, 1979.

ARTHUR S. FLEMMING,
*Chairman.*

[FR Doc. 79-485 Filed 1-4-79; 8:45 am]

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[6325-01-M]

## CIVIL SERVICE COMMISSION

### GENERAL SERVICES ADMINISTRATION

#### Title Change in Noncareer Executive Assignment

By notice of August 5, 1977, FR Doc. 77-23587, the Civil Service Commission authorized General Services Administration to fill by noncareer executive assignment in the excepted service the position of Director of Administration, Office of Administration. This is notice that the title of this position is now being changed to Controller-Director of Administration, Office of Controller-Administration.

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

[FR Doc. 79-384 Filed 1-4-79; 8:45 am]

[3510-24-M]

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### ESI, INC. ET. AL.

### Petitions by Five Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from five firms: (1) ESI, Inc., 395 Walnut Avenue, Cranford, New Jersey 07016, a producer of citizens ban radio accessories (accepted December 21, 1978); (2) Acme Leather Sportswear, Inc., 335 South Park Street, Elizabeth, New Jersey 07208, a producer of men's leather and cloth coats (accepted December 21, 1978); (3) Morgan Hill Greenhouses, 13875 Murphy Avenue, San Martin, California 95046, a grower of carnations (accepted December 21, 1978); (4) Adrian Pearl Manufacturing Company, Inc., 49 West 37th Street, New York, New York 10018, a producer of costume jewelry (accepted December 27, 1978); and (5) Mildrum Manufacturing Company, 230 Berlin Street, East Berlin, Connecticut 06023, a producer of fishing rod components (accepted December 28, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States 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 tenth calendar day following the publication of this notice.

JACK W. OSBURN, Jr.,
*Chief, Trade Act Certification Division, Office of Planning and Program Support.*

[FR Doc. 79-449 Filed 1-4-79; 8:45 am]

[3510-20-M]

### Industry and Trade Administration

[Case No. 576]

### PEDRO NOBLE-MENHINICK

### Violations of Export Administration Regulations

By letter of September 11, 1978, the Compliance Division charged that Pedro Noble-Menhinick, Doctor Roux, 38 Barcelona, Spain, violated the U.S. Export Administration Regulations, 15 CFR Part 368 *et seq.* It alleged that respondent reexported and diverted controlled U.S. origin analyzer systems in the approximate value of $237,000 to a proscribed destination without authorization of the U.S. Government, all in violation of 15 CFR 374.1.

Respondent failed to answer the charging letter. After due consideration of the evidence of record submitted to him, the Hearing Commissioner found that respondent knowingly diverted the controlled equipment as alleged in the charging letter, that such diversion from Spain to Vienna was accomplished by the use of forged documents, and ultimately to an east European destination. He stated that the evidence is conclusive that the commodities were delivered and are now in eastern Europe. The Commissioner recommended that respondent be denied all U.S. export privileges for a period of ten years.

In accordance with the evidence outlined by the Hearing Commissioner and his recommendations, I find that respondent knowingly violated the Export Administration Regulations as alleged in the charging letter of September 11, 1978. I find that an order denying export privileges to the respondent for a period ending May 31, 1989, is reasonably necessary to protect the public interest and achieve effective enforcement of the Export Administration Regulations.

Therefore, pursuant to the authority delegated to me, 15 CFR 388, it is

ORDERED

I. All outstanding export licenses in which respondent appears or participates in any manner or capacity, are hereby revoked and shall be returned forthwith to the Department of Commerce, Industry and Trade Administration.

II. The respondent is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application: (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith: (c) in the obtaining or using of any validated or general export license or other export control documents (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities, or technical data, in whole or in part, exported or to be exported from the United States: and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent but also to its agents, employees, representatives, and partners and to any other person, firm, corporation, or business organization with which the respondent now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Industry and Trade Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for said respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. This order shall remain in effect until May 31, 1989, except insofar as this order may be amended or modified hereafter in accordance with the Export Control Regulations.

VI. In accordance with the provisions of section 388.15 of the Export

Control Regulations, the respondent may move at any time to vacate or modify this Denial Order by filing with the Hearing Commissioner, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, an apropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which if requested shall be held before the Hearing Commissioner at the earliest convenient date.

This order shall become effective immediately.

Dated: December 21, 1978.

RAUER H. MEYER,
*Director,*
*Office of Export Administration.*

[FR Doc. 79-402 Filed 1-4-79; 8:45 am]

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[3510-22-M]

**National Oceanic and Atmospheric Administration**

**MARINE MAMMALS**

**Receipt of Applications for General Permits**

Notice is hereby given that the following applications have been received to take marine mammals incidental to the course of commercial fishing operations as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

Japan Deep Sea Trawlers Association, Daito Building, 6/F, Ogawa-cho, 3-6 Kanda, Chiyodaku, Tokyo, Japan, has applied for a Category 1: "Towed Or Dragged Gear" general permit;

The National Federation of Medium Trawlers, Showa Kaikan, 3-2, Kasumigaseki 3, Chiyoda-ku, Tokyo, Japan, has applied for a Category 1: "Towed Or Dragged Gear" general permit; and

The North Pacific Longline-Gillnet Association, Zenkeiren Building, 2-7-2, Hirakawa-cho, Chiyoda-ku, Tokyo, Japan, has applied for a Category 5: "Other Gear" general permit.

The applications are available for review in the office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

Dated: December 29, 1978.

WINFRED H. MEIBOHM,
*Acting Executive Director,*
*National Marine Fisheries Service.*

[FR Doc. 79-436 Filed 1-4-79; 8:45 am]

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[3510-22-M]

**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL**

**Public Meeting With Partially Closed Session**

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., (1976), notice is hereby given of a joint meeting of the North Pacific Fishery Management Council, established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (Public Law 94-265) and its Scientific and Statistical Committee (SSC), and Advisory Panel (AP) both established under Section 302(g) of the Act; and (2) separate meetings of the SSC and AP.

DATES: The North Pacific Fishery Management Council will meet on January 25 and 26, 1979. The SSC will meet on January 22, 23, 24, 1979, convening at 1:00 p.m., and adjourning at approximately 5:00 p.m. on all three days. The AP meeting will convene on January 24, 1979, at 9:00 a.m. and adjourn at approximately 5:00 p.m. The Council and its SSC and AP will meet jointly on January 25-26, 1979, convening at 8:30 a.m. and adjourning at approximately 5:00 p.m. on both days. The meetings may be extended or shortened depending upon progress on the agenda.

ADDRESS: The SSC will meet in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska. The AP will meet in Windsor Room II, at the Sheffield House Hotel, 5th and G Streets, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT:

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorge, Alaska 99510, Telephone: (907) 274-4563.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

PROPOSED AGENDA

January 22, 23, 24, 1979

The SSC will review progress on fishery management plans and prepare reports to the Council.

January 24, 1979

The AP will review progress on fishery management plans and prepare reports to the Council.

The Council agenda is as follows:

January 25, 1979

(1) Executive Director's Report and other Council Administrative business; (2) Reports from scientific and Statistical Committee and Advisory Panel; (3) Progress Report and update from the Councils Drafting Management Planning Teams; (4) Closed Session to discuss U.S. State Department Policy on allocations to foreign nations; (5) Period for public comment; and (6) Review of foreign fishing activities.

January 26, 1979

(1) Discussion of management plans: High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude; Bering Sea Clam Fishery; Tanner Crab Off Alaska 1979; King Crab of the Eastern Bering Sea; Groundfish fishery of the Bering Sea/Aleutian Islands Area; Halibut off the Coast of Alaska; Herring of the Eastern Bering Sea; Bering Sea Surf Clam, Gulf of Alaska Groundfish Fishery During 1979; and (2) Other Council business.

The SSC and AP meetings will be open to the public, as will the Council meeting except for the session planned for the early afternoon of the first day, January 25, 1979, from 1:30 p.m. to 3:00 p.m. This session will be closed to the Public to hear and discuss U.S. State Department policy on allocations to foreign nations. Only those Council members and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the Concurrence of its General Counsel, formally determined on December 28, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that this session of the January 25, 1979 meeting may be closed to the public in accordance with Section 552b(c) (1) and (6) of Title 5, United States Code, to protect Security Classified information and to insure the free discussion thereof, since this session is likely to "disclose matters that are (a) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (b) in fact properly classified pursuant to such Executive Order; and to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy." (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.

Dated: January 2, 1979.

WINFRED H. MEIBOHM,
*Acting Executive Director,*
*National Marine Fisheries Service.*

[FR Doc. 79-443 Filed 1-4-79; 8:45 am]

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[3510-20-M]

**Office of the Secretary**

**ELECTROMAGNETIC RADIATION MANAGEMENT ADVISORY COUNCIL**

**Renewal**

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with OMB, the Secretary of Commerce has determined that the renewal of the Electromagnetic Radiation Management Advisory Council, ERMAC, is in the public interest in connection with the performance of duties imposed on the Department by law.

The Council was originally established on December 11, 1968 to advise the Director of the Office of Telecommunications Management on matters dealing with the side effects and the adequacy of control of electromagnetic radiation arising from telecommunications activities. Subsequently, the Council advised the Director of Telecommunications Policy and, since the 1978 reorganization, the Secretary of Commerce on such matters through the Assistant Secretary for Communications and Information.

Following a comprehensive review of the subject, the Council, in 1971, recommended Government action to assess the biological effects of nonionizing radiation and developed guidelines for such an undertaking. The multiagency program being coordinated by this Office is a direct result of those activities. In the course of its activities, the Council is a source of expert advice and guidance not only to this office but to other Federal agencies with activities in this area.

Copies of the Council's revised charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Robert A. Frazier, Office of the Chief Scientist, NTIA, Department of Commerce, Room 704B, 1800 G Street, NW., Washington, D.C. 20504, telephone 202-395-3102.

Dated: December 29, 1978.

GUY W. CHAMBERLIN, JR.,
*Assistant Secretary for*
*Administration.*

[FR Doc. 79-494 Filed 1-4-79; 8:45 am]

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[3510-20-M]

**FREQUENCY MANAGEMENT ADVISORY COUNCIL**

**Renewal**

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Frequency Management Advisory Council is in the public interest in connection with the performance of duties imposed on the Department by law.

The Council was first established on July 19, 1965, and was to terminate on December 31, 1978. It provided advice to the Director of the Office of Telecommunications Policy (OTP), Executive Office of the president, until that office was merged by Executive Order 12046 of March 27, 1978, into the Department of Commerce, National Telecommunications and Information Administration.

In renewing the Council, the Secretary has reaffirmed its original purpose of providing advice on radio frequency spectrum allocation and assignment matters and means by which the effectiveness of Federal Government frequency management may be enhanced. Research indicates that the Council's function cannot be accomplished by any organizational element or other committee of the Department.

The Council shall continue with a balanced representation of 11 members, chaired by the Director, Office of Spectrum Plans and Policies, National Telecommunications and Information Administration, and will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Council's revised charter will be filed with appropriate committees of Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Charles L. Hutchison, National Telecommunications and Information Administration, Room 298, 1325 "G" Street, N.W., Washington, D.C. 20005, telephone: 202-724-3307.

Dated: December 29, 1978.

GUY W. CHAMBERLIN, JR.,
*Assistant Secretary for*
*Administration.*

[FR Doc. 79-493 Filed 1-4-79; 8:45 am]

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[6330-01-M]

## THE COMMISSION OF FINE ARTS

**MEETING**

The Commission of Fine Arts will meet in open session on Tuesday, January 23, 1979, at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

The monthly schedule of open meetings for the remainder of calendar year 1979 reads as follows: Wednesday, February 21, 1979; Tuesday, March 27, 1979; Tuesday, April 24, 1979; Tuesday, May 22, 1979; Tuesday, June 26, 1979; Tuesday, July 24, 1979; Tuesday, August 28, 1979; Tuesday, September 25, 1979, Tuesday, October 23, 1979; Tuesday, November 27, 1979; Tuesday, December 18, 1979. The meetings listed above will convene at 10:00 a.m. at the Commission of Fine Arts offices unless announced differently at a later date.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C., December 22, 1978.

CHARLES H. ATHERTON,
*Secretary.*

[FR Doc. 79-467 Filed 1-4-79; 8:45 am]

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[6820-33-M]

## COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

**PROCUREMENT LIST 1979**

**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 1979 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 7, 1979.

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

FOR FURTHER INFORMATION CONTACT:

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

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

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1979, November 15, 1978 (43 FR 53151):

CLASS: NONE

Pocket, Leather, Detachable
Postal Service Item No. D1200D

C. W. FLETCHER,
*Executive Director.*

[FR Doc. 79-433 Filed 1-4-79; 8:45 am]

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[3125-01-M]

## COUNCIL ON ENVIRONMENTAL QUALITY

### IMPROVING GOVERNMENT REGULATIONS

#### Semi-Annual Agenda

AGENCY: Council on Environmental Quality.

ACTION: Information.

SUMMARY: This semi-annual agenda contains a report on the status of the two regulations for which the Council has responsibility: the National Environmental Policy Act (NEPA) regulations, and the National Oil and Hazardous Substances Pollution Contingency Plan regulations.

FOR FURTHER INFORMATION: Questions should be addressed to: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006, 202-633-7032.

SEMI-ANNUAL AGENDA OF REGULATIONS

A. *National Environmental Policy Act regulations*

The Council's final regulations implementing the procedural requirements of the National Environmental Policy Act were published in Volume 43 FEDERAL REGISTER page 55990, on November 29, 1978. The Council's NEPA regulations will be published in Volume 40 Code of Federal Regulations beginning with Section 1500.

No revisions or amendments to these final regulations are under preparation or consideration by the Council.

B. *National Oil and Hazardous Substances Pollution Contingency Plan regulations*

1. Need For Amendments

The National Response Team's Committee on Revision has determined that the current National Contingency Plan regulations need to be revised to conform to legislative amendments to the Clean Water Act, to provide scientific support planning and other revisions. The Committee on Revision has drafted proposed amendments to the regulations and has submitted them to the Council for action.

2. Legal Basis

Section 311(c)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321) requires the President to prepare and publish a National Contingency Plan. In Executive Order 11735 (August 3, 1973) the President designated the Council on Environmental Quality to carry out this responsibility.

3. Status of National Contingency Plan regulations

On December 1, 1978 the Council staff circulated for informal interagency review and comment proposed amendments to the National Contingency Plan regulations. These proposed amendments are largely based on recommendations by the National Response Team's Committee on Revision of the National Contingency Plan.

During January or February, 1979 the Council intends to publish proposed amendments to the National Contingency Plan regulations in the FEDERAL REGISTER for a 60 day public review and comment period. After consideration of public and agency comments, the Council will promulgate the amendments to the regulations.

The National Contingency Plan regulations in their current form are published in Volume 40 Code of Federal Regulations beginning with Section 1510.

NICHOLAS C. YOST,
*General Counsel.*

DECEMBER 29, 1978.

[FR Doc. 79-3-36 Filed 1-4-79; 8:45 am]

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[6450-01-M]

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

[Docket No. ERA-R-78-28]

### MAJOR FULE BURNING INSTALLATIONS

#### Procedures by Which ESECA Prohibition Order Recipients May Elect To Be Covered by the Provisions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: This notice is to inform the owners and operators of Major Fuel Burning Installations which have received Prohibition Orders under the Energy Supply and Environmental Coordination Act of 1974 (ESECA), Public Law 93-319, as amended, 15 U.S.C. 791 *et. seq.*, of the procedures they may use to elect to be covered under Title II or III of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), Public Law 95-620, rather than Section 2(a) of ESECA.

EFFECTIVE DATE: January 5, 1979.

COMMENTS: Written comments are invited with respect to the procedures set forth in this Notice. Comments should be submitted to Public Hearing Management, Docket No. ERA-R-78-28, Department of Energy, Room 2313, 2000 M Street N.W. Washington, D.C. 20461. We will consider all comments received by 4:30 p.m. January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Barton House, (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-3905.

SUPPLEMENTARY INFORMATION: *Background:* Section 762(a) of FUA provides that if you own or operate a Major Fuel Burning Installation, as defined in Section 103(a) of FUA, issued a Prohibition Order under Section 2(a) of ESECA which has not yet been made effective by the issuance of a Notice of Effectiveness you may elect to be covered by Title II or III, as appropriate, of FUA rather than Section 2 of ESECA. Any election made under this notice is irrevocable.

Any requests to modify the procedure set forth below shall be filed within thirty (30) days at the address stated below. A copy of this notice shall be mailed to each eligible Prohibition Order recipient.

PROCEDURE: *What to file:* If you own or operate a facility described above and you want to elect to be covered by FUA you must give ERA notice by filing a written "Election for Coverage under FUA" signed by your Chief Executive Officer. Your election must be clearly labeled as such both on the election and on the outside of the envelope in which it is sent.

You should specify in your election the name, docket number, owner, unit and location of the facility as it appeared in the related ESECA Prohibition Order. You should also include the date the order was issued. Your election may be for a single unit or for multiple units at a single site.

*Where to file:* You must file your election with the Assistant Administrator for Fuels Regulation, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461.

*When to file:* You must file your election not later than 60 days after this notice is published. If ERA has not received your election at the expiration of this period, it will be as-

sumed that you have declined to elect to be covered by FUA and instead wish to covered under the provisions of ESECA.

*Notice:* ERA will notify you in writing that your election is recognized not later than 30 days after receipt of the election.

(Department of Energy Organization Act, Public Law 95-91; Powerplant and Industrial Fuel Use Act of 1978, Public Law 95-620.)

Issued in Washington, D.C., December 28, 1978.

DAVID J. BARDIN,
*Administrator, Economic Regulatory Administration.*

[FR Doc. 79-413 Filed 1-2-79; 12:55 pm]

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[6450-01-M]

## CUMBERLAND BASIN PROJECTS, SOUTHEASTERN POWER ADMINISTRATION

### Order Denying Proposed Rates

Notice is hereby given that the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, has issued the Order published below disapproving a proposed rate increase for the Cumberland Basin Projects, Southeastern Power Administration.

[ERA Docket No. SEPA 78-2]

CUMBERLAND BASIN PROJECTS, SOUTHEASTERN POWER ADMINISTRATION

In the matter of: Cumberland Basin Projects, Southeastern Power Administration, *ex rel.* Resource Applications, ERA Docket No. SEPA 78-2.

ORDER DISAPPROVING PROPOSED RATES

Pursuant to Section 301(b) of the Department of Energy Organization Act (the Act), 42 U.S.C. 7101 *et seq.*, the function to confirm and approve rates in accordance with Section 5 of the flood control Act of 1944, 16 U.S.C. 825s, for power marketed by, *inter alia*, the Southeastern Power Administration was transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, 42 FR 60725-27 (November 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA or the Administrator). The Administrator has delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

BACKGROUND

The Southeastern Power Administration (SEPA), by contract, sells the capacity and energy from eight hydroelectric projects, collectively known as the Cumberland Basin Projects (Cumberland Projects), to the Tennessee Valley Authority (TVA) and four electric cooperatives: Big Rivers Electric Corporation; Indiana Statewide Rural Electric Cooperative, Incorporated, Hoosier Energy Division; Southern Illinois Power Cooperative; and East Kentucky Power Cooperative (the Cooperatives). The contracts provide that the rates may be adjusted at 5-year intervals. The current rates were approved by the Federal Power Commission (now the Federal Energy Regulatory Commission) by Order issued June 29, 1973, for the period July 1, 1973, through June 30, 1978. the contract between SEPA and TVA provides that the total net capacity and energy output of the Cumberland Projects, not required in connection with the operation of the Projects, may be purchased by TVA except that up to 100,000 kilowatts of standby capacity and associated energy may be retained by SEPA for sale to the Cooperatives.

On June 2, 1978, the assistant Secretary for Resource Applications (Assistant Secretary), on behalf of SEPA, filed a request with the Administrator of ERA to confirm and approve an increase in rates for power and energy generated at the Cumberland Basin Projects for the period July 1, 1978, through June 30, 1983. In support of its request, SEPA submitted, along with other exhibits a Repayment Study, dated March 1978, which states that the proposed rates will produce revenues sufficient to repay the Federal investment allocated to power for the Cumberland Basin Projects within a fifty year repayment period, as required by part 730, Chapter 4 of the Department of the Interior Manual.*

The rates contained in proposed Wholesale Power Rate Schedule CR-1-D will increase TVA's annual payment to SEPA by an average of $2.3 million. The rates in proposed Wholesale Power Rate Schedule CR-2-D will raise approximately $200,000 in revenues from the Cooperatives annually. The combined average annual revenue increase during the next five years will be approximately $2,538,000 which is equivalent to a 15.8% increase over the present revenue level.

DISCUSSION

On June 28, 1978, ERA afforded interested persons the opportunity to file written comments on the proposed rates and to request a public hearing, 43 FR 29026 (July 5, 1978). No written comments were received in response to the Notice and no requests for a public hearing were filed.

The repayment study which accompanied the rate filing provides for total power repayment in 45 years, which will create a projected surplus of $39,335,000 by the end of the 50 year repayment period. By memorandum dated July 25, 1978, ERA questioned SEPA's plan to repay the power investment in 45 years, since this early repayment schedule will, in effect, require wholesale power rates to be higher than the minimum necessary to ensure the recovery of the costs allocated to power.

In a memorandum dated September 7, 1978, SEPA stated that the minimum annual revenues necessary to repay the Cumberland Projects in 50 years without creating a surplus in revenues, as determined utilizing the repayment criteria specified in Part 730, Chapter 4 of the Department of the Interior Manual, are only $300,000 less than the annual revenues anticipated under the rate schedules submitted for approval by the Assistant Secretary. SEPA maintains that the proposed rates will create an annual contingency fund of only 1.6%.

Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s requires the government to sell electric power and energy from Federal hydroelectric projects including the Cumberland Basin Projects "in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles." ERA concludes that the rates contained in the proposed wholesale power rate schedules will produce revenues in excess of those necessary to repay project costs allocated to power, in violation of the Flood Control Act of 1944. Therefore, ERA is not approving the Assistant Secretary's June 2, 1978, request, made on behalf of SEPA, for higher rates for power and energy marketed from the Cumberland Basin Projects.

ORDER

Pursuant to the authorities set forth above, the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration Orders:

1. The proposed rates contained in Wholesale Power Rate Schedule CR-1-D and Wholesale Power Rate Schedule CR-2-D filed by the Assistant Secretary for Resource Applications on June 2, 1978, are hereby disapproved on the ground that such rates are higher than necessary to recover the cost of producing and transmitting power and energy generated at the Cumberland Basin Projects over a fifty year repayment period; and

2. A copy of this Order shall be published with FEDERAL REGISTER.

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* Part 730, Chapter 4 of the Department of the Interior manual, which sets forth the financial reporting and repayment requirements of the power marketing administrations, is effective until rescinded, amended or superseded by the Department of Energy.

Issued in Washington, D.C., this 29th day of December 1978.

CHARLES A. FALCONE,
*Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.*

[FR Doc. 79-420 Filed 1-4-79; 8:45 am]

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[6450-01-M]

## LAUREL PROJECT, SOUTHEASTERN POWER ADMINISTRATION

### Order Extending Confirmation and Approval of Short-Term Power Rates

Notice is hereby given that the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, has issued the Order published below extending through March 31, 1979, confirmation and approval of short-term power rates for the Laurel Project, Southeastern Power Administration.

[ERA Docket No. SEPA 78-1, Supplement No. 3]

LAUREL PROJECT, SOUTHEASTERN POWER ADMINISTRATION

In the matter of: Laurel Project, Southeastern Power Administration, *ex rel.* Resource Applications, ERA Docket No. SEPA 78-1, Supplement No. 3.

ORDER EXTENDING CONFIRMATION AND APPROVAL OF SHORT-TERM RATES

Pursuant to Section 301(b) of the Department of Energy Organization Act (the Act), 42 U.S.C. 7101 *et seq.*, the function to confirm and approve rates in accordance with Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, for power marketed by, *inter alia*, the Southeastern Power Administration was transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, 42 FR 60725-27 (November 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA or the Administrator). The Administrator has further delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

BACKGROUND

The Laurel Project began commercial operation as a hydroelectric generating facility on October 25, 1977. It was Southeastern Power Administration's (SEPA) original intention to sell one-half of the project output to East Kentucky Power Cooperative, Inc. (East Kentucky) and to sell the other half to eight municipal customers in Kentucky. The power sold to these municipal customers was to be transmitted through the facilities of East Kentucky and Kentucky Utilities Company (Kentucky Utilities). However, SEPA and Kentucky Utilities did not complete a contract for the transmission of this power to the eight municipal customers. Therefore, SEPA entered into a contract (Contract No. 89-00-1501-564) for the sale of the entire output from the Laurel Project to East Kentucky for the period beginning November 1, 1977, and ending January 31, 1978, at the following rate:

$56,000 per calendar month for capacity, plus 10.0 mills per kilowatt hour for energy declared and made available.

The schedule of rates and charges in the SEPA contract were to apply to the period during which negotiations between SEPA and Kentucky Utilities for the transmission of power to the municipal customers were to be concluded. The SEPA contract was extended on January 26, 1978, for an additional 3-month period through April 30, 1978.

The Assistant Secretary for Resource Applications (Assistant Secretary), on behalf of SEPA, requested the Administrator of ERA to confirm and approve the short-term rates of the Laurel Project through April 30, 1978. On April 21, 1978, the Administrator of ERA, after notice and comment, issued an order confirming and approving the short-term rates contained in the contract through April 30, 1978, 43 FR 17857 (April 26, 1978). Upon request of the Assistant Secretary on May 5, 1978, and after notice and an opportunity for comment, ERA confirmed and approved an extention of the short-term rates on September 20, 1978, through September 30, 1978, 43 FR 43547 (September 26, 1978).

On October 10, 1978, the Assistant Secretary, on behalf of SEPA, requested the Administrator of ERA to extend confirmation and approval of the existing short-term rates of the Laurel Project through March 31, 1979, since the transmission arrangements with Kentucky Utilities had still not been completed.

DISCUSSION

On October 30, 1978, ERA afforded interested persons the opportunity to file written comments on the proposed extension and to request a public hearing. No requests for a public hearing were filed. The cities of Barbourville, Corbin, and Falmouth, Kentucky and the Frankfort Electric and Water Plant Board (Kentucky Municipals), four of the eight potential municipal customers, filed joint written comments on December 13, 1978, in response to the Notice. No other written comments were filed.

In their written comments, the Kentucky Municipals renewed a request previously made in comments filed on July 18, 1978, that ERA's approval of the short-term rates be conditioned upon the establishment of a banking or pay-back provision that would permit the Kentucky Municipals to withdraw, at a mutually agreeable time upon completion of transmission arrangements with Kentucky Utilities, up to one half of the 70 MW of Laurel Project power that is currently being sold to East Kentucky. The Kentucky Municipals contend that "[s]uch a condition would reduce (Kentucky Utility's) incentive to continue its strategy of delay in negotiating a transmission arrangement with SEPA, since delay would no longer serve to reduce Kentucky Municipals' total energy purchases from SEPA over the long run." The Kentucky Municipals further state that they are not seeking to take power away from East Kentucky, but only to obtain their allocated share of the Laurel power.

ERA is cognizant of the issues raised by the Kentucky Municipals. However, only the proposed extension of the short-term rates is at issue in this proceeding. As stated in ERA's order issued September 20, 1978, granting an earlier request for an extension of the Laurel Project rates, the responsibility to make the necessary arrangements for the marketing of power and energy generated at the Laurel Project lies with SEPA and the Assistant Secretary. SEPA's marketing policies for the Laurel Project are not relevant to a determination of whether the proposed extension of short-term rates complies with the statutory requirements.

In view of the foregoing, ERA has determined that it is appropriate to extend confirmation and approval of the short-term rates for power sold to East Kentucky from the Laurel Project through March 31, 1979, as requested by the Assistant Secretary.

ORDER

Pursuant to the delegation of authority set forth above, the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Orders:

1. Confirmation and approval of the short-term rates for the sale of power and energy generated at the Laurel Project, Southeastern Power Administration, to the East Kentucky Power Cooperative, Inc., is hereby extended through March 31, 1979; and,

2. The Assistant Secretary for Resource Applications shall cause a copy of this order to be distributed to all appropriate parties on the service list.

Issued in Washington, D.C., this 29th day of December, 1978.

CHARLES A. FALCONE,
*Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.*

[FR Doc. 79-421 Filed 1-4-79; 8:45 am]

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[6450-01-M]

## JIM WOODRUFF PROJECT, SOUTHEASTERN POWER ADMINISTRATION

### Order Disapproving Proposed Rates

Notice is hereby given that the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, has issued the Order published below disapproving proposed rates for the Jim Woodruff Project, Southeastern Power Administration.

[ERA Docket No. SEPA 78-3 (Formerly FPC Docket No. E-6957)]

JIM WOODRUFF PROJECT, SOUTHEASTERN POWER ADMINISTRATION

ORDER DISAPPROVING PROPOSED RATES

In the matter of: Jim Woodruff Project, Southeastern Power Administration, *ex rel.* Resource Applications, ERA Docket No. SEPA 78-3, (Formerly FPC Docket No. E-6957).

Pursuant to Section 301(b) of the Department of Energy Organization Act (the Act), 42 U.S.C. 7101 *et seq.*, the function to confirm and approve rates in accordance with Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s for power marketed by, *inter alia*, the Southeastern Power Administration was transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-4, effective October 1, 1977, 42 FR 60725-27 (November 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA or the Administrator). The Administrator has delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

BACKGROUND

On July 11, 1977, the Department of the Interior (Interior), on behalf of the Southeastern Power Administration (SEPA), filed a request with the Federal Power Commission (FPC) for an extension of confirmation and approval of SEPA's wholesale power rate schedule JW-1 (Revised) and for confirmation and approval of SEPA's proposed wholesale power rate schedule JW-2-A for the sale of electric power and energy generated at the Jim Woodruff project for a period of five years beginning August 20, 1977, and ending August 19, 1982. Schedule JW-1 (Revised) was originally confirmed and approved by the FPC on August 8, 1967. Schedule JW-2-A supersedes and is identical to Schedule JW-2 (Revised), approved by the FPC on April 15, 1966, except that the fuel adjustment clause has been revised. In support of its request, Interior submitted, along with other exhibits, a repayment study, dated April 1977, which states that the proposed rates will produce revenues sufficient to repay the Federal investment allocated to power for the Jim Woodruff Project within a fifty year repayment period, as required by Part 730, Chapter 4 of the Department of the Interior Manual.*

The Jim Woodruff Project is located on the Apalachicola River near Chattahoochee, Florida. It is operated by the United States Army Corps of Engineers. The entire output of the project is now being sold to six preference customers and to Florida Power Corporation. Florida Power Corporation purchases all Project energy in excess of the requirements of the preference customers.

Rate Schedule JW-1, which is applicable to power and energy sold to the preference customers, includes a monthly demand charge of $1.50 per kilowatt of billing demand and an energy charge of 4.5 mills per kilowatt-hour. Proposed rate schedule JW-2-A, which is applicable to electric energy sold to Florida Power Corporation, includes a charge of 4.0 mills per kilowatt-hour for on-peak energy and a charge of 2.5 mills per kilowatt-hour for off-peak energy, subject to a fuel adjustment charge based upon the Florida Power Corporation's cost of fuel per kilowatt-hour. The fuel adjustment clause contained in the existing rate schedule (JW-2 (Revised)), has been changed in the proposed rate schedule (JW-2-A) to conform with the FPC's method of computing fuel adjustments and to raise the base from which fuel adjustments will be made.

DISCUSSION

On July 22, 1977, the FPC afforded interested persons the opportunity to file written comments relative to Interior's request, 42 FR 38938 (August 1, 1977). No written comments were received in response to the Notice.

In a letter to Interior dated September 2, 1977, the FPC noted several deficiencies in the accounting procedures used in the repayment study which accompanied the rate filing and requested an informal conference with SEPA to discuss the accounting deficiencies. At a conference, held on September 15, 1977, the FPC noted that:

1. The method of estimating future replacement costs appeared to be arbitrarily high;

2. Replacements made near the end of the project repayment period were shown to be repaid in full in the year of installation; and

3. The repayment schedule for the project indicated that total power repayment will be accomplished three years early so that a surplus of $1,882,000 will be earned by the end of the fifty year repayment period. The FPC observed that each of these deficiencies would cause the wholesale power rates to be higher than necessary to pay back project costs allocated to power over a period of fifty years.

Review of this matter passed to ERA on October 1, 1977, by the terms of the Secretary's Delegation Order No. 0204-4. A second informal conference was held on January 30, 1978, attended by representatives from SEPA, ERA, and FERC (formerly the FPC). ERA reiterated the concern that SEPA's accounting practices will, in effect, require wholesale power rates to be higher than the minimum necessary to ensure the recovery of the cost of producing the electricity sold. At the January 30, 1978, conference, SEPA conceded that its accounting procedures will produce a surplus in revenue over the fifty year repayment period. SEPA stated that the surplus in revenue provides a necessary contingency fund to offset unstable or low water conditions and other operating uncertainties.

Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s requires the government to sell electric power and energy from Federal Hydroelectric projects including the Jim Woodruff Project "in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles." ERA concludes that the rates contained in the proposed wholesale power rate schedules will produce revenues in excess of those necessary to repay project costs allocated to power, in violation of the Flood Control Act of 1944. Therefore, ERA is not approving Interior's request, made on behalf of SEPA, as filed with the FPC on July 11, 1977.

ORDER

Pursuant to the authorities set for the above, the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration Orders:

1. The proposed extension of the rates contained in Wholesale Power

*Part 730, Chapter 4 of the Department of the Interior Manual, which sets forth the financial reporting and repayment requirements of the power marketing administrations, is effective until rescinded, amended or superseded by the Department of Energy.

Rate Schedule JW-1 (Revised) and the proposed rates contained in the Wholesale Power Rate Schedule JW-2-A filed by the Department of the Interior with the Federal Power Commission on July 11, 1977, are hereby disapproved on the ground that such rates are higher than necessary to recover the cost of producing and transmitting the energy and power sold by the Jim Woodruff Project over a fifty year repayment period; and

2. A copy of this Order shall be published in the FEDERAL REGISTER.

Issued in Washington, D.C., this 29th day of December, 1978.

CHARLES A. FALCONE,
*Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.*

[FR Doc. 79-419 Filed 1-4-79; 8:45 am]

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[6560-01-M]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 1035-1]

### APPLICATION FOR METHYL TERTIARY BUTYL ETHER (MTBE)

#### Decision of the Administrator

I. *Introduction.* Section 211(f) of the Clean Air Act (Act), 42 U.S.C. 7545(f) (1977), contains prohibitions and limitations on the use of controlled fuels and fuel additives.[1] Section 211(f)(1) prohibits, after March 31, 1978, any manufacturer from first introducing into commerce or increasing the concentration in use of any controlled fuel or fuel additive. Section 211(f)(3) prohibits any manufacturer which first introduced into commerce or increased the concentration in use of any controlled fuels or fuel additives between January 1, 1974 and March 31, 1977, from distributing such fuels and fuel additives in commerce after September 15, 1978.

Waivers may be obtained for any of the section 211(f) prohibitions or limitations. Section 211(f)(4) provides that the Administrator of the Environmental Protection Agency (EPA), upon application of any manufacturer of a fuel or fuel additive, may grant a waiver if he determines that the applicant [2] has established that the fuel or fuel additive will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny an application within 180 days of its receipt, the waiver is granted by operation of the Act.

I have received an application for a section 211(f)(4) waiver for methyl tertiary butyl ether (MTBE). The application for MTBE, for a concentration range of 5 to 15 volume percent, was received on June 30, 1978, from Petro-Tex Chemical Corporation (Petro-Tex). The 180-day review period for the Petro-Tex application expires December 27, 1978.[3]

Although not required, a public hearing [4] on this application was held on September 6, 1978, in Washington, D.C., and the thirty day comment period following the hearing ended on October 6, 1978.

II. *Summary of the Decision.* I have determined that Petro-Tex has not met its burden under section 211(f)(4) of making the requisite showing to obtain a waiver for MTBE in the concentration range of 5 to 15 volume percent.

Petro-Tex and other interested parties have submitted data for MTBE concentrations of 5, 7, 10, and 15 volume percent from which Petro-Tex concludes that MTBE will not cause or contribute to the failure of any emission control device or system.

I find, however, that the data presented on MTBE in the volumetric concentration range of 5-15 volume percent are not sufficient to establish that MTBE will not cause or contribute to the failure of any emission control device or system such that any vehicle would fail to meet its certified emission standards.[5] This decision on MTBE is not made on the basis of a finding that MTBE will cause or contribute to a failure of any emission control device or system over the useful life of any vehicle, but on the basis that insufficient data exist to conclude that the applicant has met its statutory burden under section 211(f)(4).[6] Any conslusions as to the effect of MTBE on emission control devices and systems relevant to a vehicle's failure to meet emission standards must await further data. I, therefore, deny the waiver request for MTBE in the concentration range of 5 to 15 volume percent. All section 211(f) prohibitions pertaining to MTBE in this concentration range remain in effect.

III. *Method of Review.* The Act prohibits the distribution into commerce of certain fuels and fuel additives pursuant to sections 211(f)(1) and (3). The Administrator may waive these prohibitions pursuant to section 211(f)(4), if he determines that an applicant has established that such fuel or fuel additive will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act.

This burden, which Congress has imposed on the applicant, if interpreted

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[1] Section 211(f)(1) makes it unlawful upon March 31, 1977 "for any manufacturer of any [new] fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for general use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 (of the Act)."

[2] In determining whether an applicant has established his burden, the Administrator will look at all of the available data including data provided by persons other than the applicant.

[3] Another application for MTBE, for a concentration range of 0 to 7 volume percent, was received on August 28, 1978, from Atlantic Richfield Company (ARCO). The 180-day review period for the ARCO application expires February 24, 1979. This waiver request will be treated separately. To the extent data supporting the ARCO application were submitted within sufficient time to be considered for this decision, they were incorporated.

[4] See, "Gasohol and MTBE Waiver Request: Public Hearing," 43 FR 36,686 (1978). The Public Docket (Docket No. MSED-211(f)-MTBE) is available for public inspection in the Public Information Reference Unit, Environmental Protection Agency, Room 2922, 401 M Street SW., Washington, D.C. 20460. This docket contains all the information considered in this proceeding, including the MTBE applications submitted by ARCO, and other submittals to the record.

[5] The applicable emission standards pursuant to section 206 of the Act are set forth in 40 CFR 85.075-1, 85.076-1, 86.077-8, and 86.078-8. The 1978 exhaust emission standards are: hydracarbons (HC), 1.5 grams per vehicle mile, carbon monoxide (CO), 15 grams per vehicle mile, oxides of nitrogen ($NO^x$), 2.0 grams per vehicle mile. The fuel evaporative standard is 6 grams per test as determined by the SHED test method, 40 CFR 86.107-78. Aldehyde emissions have been widely discussed in connection with the use of oxygenated fuels. Although emissions of aldehyde, and other unregulated pollutants are of continuing interest to EPA due to their potential adverse effect on health, they have no bearing on this waiver decision. The waiver provision, section 211(f)(4), is solely concerned with the emission standards which apply to tailpipe emissions of HC, CO, and $NO^x$ and evaporative HC emissions. Notwithstanding section 211(f), EPA retains authority to regulate any fuel or fuel additive under section 211(c) of the Act.

[6] The principal problem is the limited amount of exhaust and evaporative emissions data as measured according to the Federal Test Procedure. *See* 40 CFR 86.12F-78 through 145-78 (1977). (For model year 1978 and subsequent vehicles, EPA adopted a SHED testing procedure. *See* 40 CFR 86.107-78 (1977).) or a discussion of the applicant's 211(f)(4) burden necessary to obtain a waiver *see* "IN Re Application for MMT Waiver, Decision of the Administrator," 43 FR 41,425 (1978) and section III, *infra*.

literally, is virtually impossible to meet as it requires the proof of a negative proposition, i.e., that no vehicle will fail to meet the emission standards with respect to which it has been certified. Taken literally, it would require the testing of every vehicle. Recognizing that Congress contemplated a workable waiver provision some mitigation of this stringent burden was deemed necessary. For purposes of the waiver provision, it is recognized that reliable statistical sampling and fleet testing protocols could safely be used to demonstrate that the fuel or fuel additive under consideration would not cause or contribute to failures of emission standards by automobiles in the national fleet.[7]

An affirmative grant of a waiver presumes sufficent data exist to determine with certainty that the fuel or fuel additive will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Act. Data submitted with respect to a waiver request are analyzed by appropriate statistical methods. Three statistical tests have been applied to the emission data provided in support of this MTBE waiver request: a Paired Difference Test, Sign of Difference Test, and a test which compares the deteriorated emissions with the emissions standards (hereafter, Deteriorated Emissions Test). A description of these test and their application to the data is found in the Characterization Report.[8]

IV. *Nature of the Test Data.* The varying nature of fuels or fuel additives may alter the type of testing required to determine whether such fuels or fuel additives cause or contribute to the failure of vehicles to comply with emission standards. A fuel or fuel additive which is expected to affect the performance of emission control devices or systems adversely over a period of time and mileage may require testing to determine whether such effects exist. This could be done by actually testing vehicles over time or mileage, or both. (This is commonly known as durability testing.)

On the other hand, a fuel or fuel additive which is expected to have only an instantaneous emission effect on a vehicle could be judged by comparing back-to-back emission tests[9] on the same vehicle. Failure would then be determined by whether the change in the instantaneous emission levels would cause or contribute to that vehicle's failing to meet applicable emission standards.

It is possible that a fuel or fuel additive may operate to cause both an instantaneous increase and an increased deterioration of emission control systems or devices. If so, then both long term emissions data and instantaneous emissions data may be required.

Only data relating to an instantaneous emissions effect of MTBE have been submitted.[10]

Upon examination of the available data on material compatibility, EPA has concluded that 50,000 mile durability testing data are not essential to this waiver decision.[11] Therefore, a reasonable estimate of a test vehicle's emissions performance can be obtained using certification data in lieu of requiring the applicant to perform 50,000 mile durability testing.

V. *Analysis.* The following is a summary of the exhaust emissions data received in support of the application for 5-15 volume percent of MTBE.[12]

At 5% MTBE there were exhaust emission data submitted for only one vehicle. At 7%, exhaust emission data were provided for eight vehicles. At 10%, exhaust emissions data were provided for sixteen vehicles. At 15%, exhaust emission data from four vehicles were submitted.

No data were obtained for evaporative emissions at 5% MTBE. Evaporative emissions date were received for only one vehicle per concentration for 7%, 10%, and 15% MTBE.

With regard to the application of the Paired Difference Test and Sign of Difference Test for exhaust emissions at the different concentration levels, the insufficient number of vehicles coupled with the considerable data variability precluded any definitive conslusion as to whether MTBE caused or contributed to the failure of vehicles to meet emissions standards. Applying the Deteriorated Emissions Test to the exhaust emissions data is not possible since a minimum sample size of 10 vehicles is needed with each vehicle sufficiently identified to determine the appropriate deterioration factors to be applied. While exhaust emission data from over 10 vehicles were submitted at the 10% MTBE concentration level, only 9 vehicles were sufficiently identified so as to permit the application of the deteriorated emission test to the data. None of these statistical tests could be applied to evaporative emissions data due to the insufficient quantity of data at every concentration level.

B. *Technical Analysis—Materials Compatibility.*

The issue of materials compatibility has been raised by several interested parties.[13] Data submitted by ARCO and Suntech, Inc.[14] indicated that MTBE at concentrations of 10% and below did not produce significant materials compatibility problems. Suntech, Inc. reported that samples of metals stored in a 15% MTBE fuel for six months revealed no visual changes.[15] Suntech, Inc. concluded that there are no compatibility problems with 10% MTBE. Texaco also concluded that after four weeks of submersion of metallic and nonmetallic fuel system parts in a 10% MTBE fuel, no significant problems were

[7] The quantity of testing required to meet the statistical requirements for fleet testing may not be necessary where technical judgment is convincingly validated by confirmatory testing.

[8] Three different statistical procedures appropriate for small sample analysis were used. The sample size at any MTBE concentration was not sufficiently large to draw definite conclusions using any of the three tests. The Characterization Report is an analysis of the data considered in this waiver application. *See,* Characterization Report at p. 4.

[9] Back-to-back testing involves measuring, sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel or fuel additive and then on a base fuel containing the additive.

[10] *See,* Characterization Report at Table 1 for description of test vehicles. Texaco performed a limited durability test program using six 1978 Chevrolet Chevelles and six different fuel combinations. Texaco ran these vehicles for 20,000 miles on a Road Simulator Test (designed to simulate the average consumer driving environment). Texaco concluded that 10% MTBE versus three non-MTBE fuels did not reduce the catalytic activity of the catalytic converter. *See,* MSED-211(f)-MTBE-3. ARCO also performed a limited durability test on four vehicles. ARCO accumulated 4,000 miles and projected the emissions at 50,000 miles using the EPA certification deterioration factor. The mileage was accumulated using a fuel containing 5% MTBE. ARCO reported that the projected 50,000 emissions were below the applicable standards. However, ARCO used the deterioration factor (DF) for the vehicles determined during certification. These DF's were determined on a mileage accumulation fuel not containing MTBE. *See,* MSED-211(f)-MTBE-6.

[11] This conclusion is reached from an examination of the available material compatibility information, *see,* section V (B)(l), *infra,* and our technical judgment of the physical and chemical properties of MTBE. The combustion of MTBE results in no metallic components which may deposit on and deactivate the catalyst. Therefore, the emissions effect should be of an instantaneous, not a deterorative nature.

[12] Data from four vehicles was received from ARCO on 3% MTBE. Although the data were analyzed and included in the Characterization Report, they are not applicable to this waiver request decision for 5-15%.

[13] *See,* Transcript of Proceedings at 69(ARCO); 119(FORD); and 189(GM). *See,* also, MSED-211(f)-MTBE-5, Section 5 (Texaco), MSED-211(f)-MSED-35, Attachment 3 and Attachment 6-Reference 4.

[14] *See,* MSED-211(f)-MTBE-6 at 35 and MSED-211(f)-MTBE-30 at Section III.

[15] *See,* MSED-211(f)-MTBE-30 at Section III.

found.[16] Texaco also discovered that no problems with non-metallic parts arose during their 20,000 miles mileage accumulation test on six vehicles.[17] Based on this data, the chemistry of MTBE, and our technical judgment, I have concluded that MTBE does not present a significant material compatibility problem.

VI. *Findings and Conclusions.* I have determined that Petro-Tex has not established that MTBE or the emission products thereof will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 of the Clean Air Act. The applicant, or any other manufacturer, may and is encouraged to reapply for a waiver for MTBE in the event that additional relevant data become available.

Accordingly, the Petro-Tex Chemical Corporation's request for a waiver for MTBE is denied.

Dated: December 26, 1978.

DOUGLAS M. COSTLE,
*Administrator.*

CHARACTERIZATION REPORT

SUMMARY

This paper presents a summarization and analysis of the data presented in support of the request from Petro-Tex Chemical Corporation for a waiver of the limitation and prohibition from use of methyl tertiary-butyl ether (MTBE) in a 5-15% concentration in unleaded fuel. Included are a description of the sources of test data, the statistical analysis of the data, and a discussion of the conclusions drawn.

SOURCES OF DATA

EPA has received back-to-back FTP exhaust emissions data [18] on seventeen oxidation catalyst vehicles, ten three-way catalyst vehicles and one dual bed catalyst vehicle from the following sources: Atlantic Richfield Company (ARCO), General Motors Corporation, the Ford Motor Company, Texaco Incorporated, and Shell Oil Company. A description of each vehicle tested in each program is contained in Table 1.

Atlantic Richfield, in support of its waiver request for the use of up to 7% MTBE has submitted back-to-back FTP data on eight 1976 or later model vehicles. Of these, five vehicles were equipped with oxidation catalysts and three were equipped with three-way catalysts. The base fuel for these tests was unleaded ARCO fuel. These vehicles were tested on the base fuel and the base fuel blended with 7% MTBE. Four of these vehicles were also tested on the base fuel blended with 3% MTBE.[19]

In addition, one 1978 oxidation catalyst vehicle was tested for evaporative emissions on a low volatility base fuel and 7% MTBE blended to produce a low volatility fuel, and a high volatility base fuel and 7% MTBE blended to produce a high volatility fuel.

General Motors has submitted data on five 1978 vehicles: two equipped with oxidation catalysts, two equipped with three-way catalysts, and one equipped with a dual bed catalyst. The base fuel was indolene. Test data were reported for MTBE concentrations of 5%, 10%, and 15% added to indolene from one vehicle and 15% for three other vehicles. In addition, evaporative results were provided on two vehicles.

Texaco submitted data on three 1977 and 1978 oxidation catalyst vehicles comparing FTP emissions on an unleaded Texaco base fuel versus the same base fuel with 10% MTBE blended.

Ford Motor Company tested eight 1978 or later vehicles on indolene and indolene with 10% MTBE added. Four test vehicles were equipped with three-way catalysts; of these, three were developmental vehicles, and one was a production vehicle. The four remaining production vehicles were equipped with oxidation catalysts.

Shell Oil Company has submitted data on four 1977 or later vehicles, two equipped with oxidation catalysts and two with three-way catalysts. The fuels used were an unleaded Shell fuel and the fuel with 10% MTBE added.

ANALYTIC PROCEDURES

This section reviews several procedures designed to examine the effects of fuels blended with MTBE. They are:

(1) Paired difference test
(2) Sign of difference test
(3) Comparison of deteriorated emissions with standards

Each test was applied to data for a specific catalyst technology type and MTBE concentration. Preliminary data review suggested that for HC and NOx there was no clear pattern of emissions effects as a function of MTBE concentration. However, the data seemed to indicate a decrease in CO with increasing concentrations of MTBE. Because there was no clear pattern, each concentration was considered individually in this characterization.

(1) *Paired difference test.* For each vehicle tested on a base gasoline and an MTBE containing fuel, the differences between the MTBE emissions and the base emissions were calculated. A 90% confidence interval was constructed for each of these differences.

This method of establishing 90% confidence intervals on the mean difference implicitly assumes emissions follow a normal distribution. While this requirement may not be exactly met, the method is robust enough to withstand some deviations from the normality assumption. This interval can be interpreted as: In approximately 90 experiments out of 100, one is confident that the interval so constructed would include the true value of the mean emission difference (i.e., MTBE effect). If the resulting entire interval is below zero it is indicative of no adverse effect from MTBE; if the entire interval is above zero, it is indicative of an adverse effect from MTBE.

If the interval contains zero, there is arguably no difference between the base fuel and MTBE fuel emission levels provided this interval is reasonably small. Since the length of the confidence interval can be large in the case of a small sample size, any interval containing zero must be sufficiently small that its upper limit does not exceed 10% of the applicable emission standard to reasonably contend that no effect exists.

In order to assure that these intervals covering zero are small enough, sufficient samples must be taken. Since the interval length varies inversely with the sample size, an increase in sample size would decrease the interval length. If the interval length were sufficiently small, one of three possible results could occur:

(i) The entire interval would lie below zero;
(ii) The interval would include zero and the upper limit would be lower than 10% of the applicable emission standard; or
(iii) The entire interval would lie above zero.

In general, the result is dependent on the location of the sample mean. Any of the three results would permit a definitive conclusion to be drawn. Hereafter, the situation in which a confidence interval includes zero, but has an upper limit above 10% of the standard will be referred to as having "insufficient data to reach a definitive conclusion".

Therefore, this procedure considers an adverse effect from MTBE to exist when this confidence interval lies entirely above zero. A lack of adverse effect is said to exist if the confidence

[16] *See*, MSED-211(f)—MTBE-5 at Section 5 and 6(c).

[17] *See, id.*

[18] Back-to-back testing involves measuring, sequentially, the emissions from a particular vehicle, first operated on a base fuel not containing the waiver request fuel or fuel additive and then on the base fuel containing the additive.

[19] Data from four vehicles were received from ARCO on 3% MTBE. Although it was analyzed and included in this report, it is not applicable to this waiver request for 5-15%.

interval is entirely below zero or if it contains zero while the upper limit does not exceed 10% of the applicable standard.

For the purposes of this procedure, replicate tests on any one vehicle and fuel were averaged; and each vehicle carried an equal weight in the determination of the confidence interval.

The results of this procedure are shown in Table 2. Where a dash appears, there was insufficient information (either no observations or only one observation) to construct an interval. At any concentration level, there were not enough data to make definitive conclusions about all pollutants.

For oxidation catalysts, the results are summarized by:

(a) 3% MTBE—HC emissions decreased; insufficient data to reach a definitive conclusion for CO and NOx; no evaporative data.

(b) 5% MTBE—only one vehicle, insufficient data to construct any interval.

(c) 7% MTBE—HC, CO, and NOx did not increase, there were insufficient data to reach a definitive conclusion for evaporative emissions.

(d) 10% MTBE—HC, and CO emissions decreased, NOx did not increase, and there were no data to create a confidence interval for evaporative emissions.

(e) 15% MTBE—CO emissions did not increase, there were insufficient data to reach a conclusion for HC, NOx and evapcrative emissions.

For three-way catalysts, the results are summarized by:

(a) 3% MTBE—not enough data to construct any interval

(b) 5% MTBE—no data at all

(c) 7% MTBE—HC emissions did not increase; insufficient data to reach a definitive conclusion for CO and NOx; no evaporative data

(d) 10% MTBA—CO and NOx emissions did not increase, there was insufficient data to reach a definitive conclusion for HC; and evaporative emissions.

(e) 15% MTBE—insufficient data to reach a definitive conclusion for HC, CO, and NOx; no evaporative data.

Thus, there was no concentration and technology class for which sufficient data existed from which conclusions could be drawn for all regulated pollutants.

(2) *Sign of difference tests.* For each vehicle tested with a base gasoline and an MTBE containing fuel, the sign of the emission difference between MTBE emissions and base fuel emissions was ascertained. The sign of these differences was considered. This non-parametric test was designed to determine whether the number of cars demonstrating an increase (+) in emissions with MTBE significantly (at a 90% confidence level) exceeded those showing a decrease (—) in emissions with MTBE.

In each test for each pollutant, the null hypothesis was that the median emission level for that pollutant was the same for both the base and the MTBE blend fuel. The alternative hypothesis for both HC and CO was that the median emissions level for MTBE was lower than that of the base fuel. For NOx and evaporative emissions, the alternative hypothesis was that the median level was higher for the MTBE fuel than that of the base fuel. The number of vehicles for which an increase in emissions was observed was calculated for each concentration and technology combination. If there were no real differences in emission levels attributable to MTBE, the expected proportion of instances in which an increase between fuels would occur for any pollutant would be .5. Thus a large proportion of observed increases in emission levels for a pollutant would indicate an adverse effect of MTBE. Similarly, a small proportion of increases in emission levels would indicate a positive effect of MTBE.

To be able to recognize large and small proportion increases (compared with .5) with confidence a sufficient sample size is required.

Table 3 shows the results of this procedure. Only in the case of HC and CO for oxidation catalysts were the sample sizes sufficient to indicate a decrease in the emission levels for these pollutants with high certainty when MTBE was added to the fuel. The rest of the cases all had insufficient data to conclude significant effects.

(3) *Comparison of deteriorated emissions with standards.* In order to determine whether the applicant had demonstrated that MTBE would not cause or contribute to the failure of any vehicle to meet emission standards during its useful life, a one-sided sign test to evaluate compliance using projected 50,000 mile emission levels was performed. This statistical procedure assumes that the difference in emission levels between the base and MTBE blend fuel for a particular vehicle either remains constant or becomes larger over the useful life of the vehicle.

Projected 50,000 mile emission levels for each nondevelopmental test vehicle (on which EPA had received sufficient vehicle identification information) were obtained by using average Federal Test Procedure (FTP) results and 50,000 mile certification data.

The test was designed such that the risk of failing would be at least 90% if 20% or more of the represented fleet failed to meet Federal emission standards for the particular MTBE blend considered.

The risk of failing this procedure is high for small sample sizes but decreases when the sample size is increased. Under this procedure, the critical number (the smallest number of projected test failures for a given sample size which would constitute a failure of the criterion) for a sample size of 10 would be one. For sample sizes less than 10, this procedure with a non-zero critical value could not be designed. That is, a sample of less than 10 would be insufficient information to apply the procedure.

Thus for samples of size 10, if one vehicle failed to meet emissions standards with its projected 50,000 mile value, the review criterion was a failure.

This procedure was evaluated for each MTBE concentration for each catalyst technology. It was applied as follows: For each nondevelopmental vehicle for which there existed sufficient vehicle information, the 50,000 mile emissions levels were obtained from the certification test results for its configuration. The difference between average emission levels for the MTBE concentration and base were added to these levels to obtain projected 50,000 mile levels. These projected levels were then compared to emissions standards to which the vehicle was certified. A failure was recorded when a projected level exceeded the appropriate standard. Table 4 displays the results of this procedure.

This comparison resulted in a failure on HC for 7% MTBE concentration for oxidation catalyst vehicles. In all other categories there were no failing vehicles. However, the number of vehicles tested in any concentration/technology classes was not sufficient to allow passing of this criterion.

*Conclusions.* Use of MTBE in concentration of 7% or greater appears to reduce HC and CO emissions in both oxidation and three-way catalyst vehicles. However insufficient test data were available to apply the review criteria and obtain conclusive results for the four regulated pollutants at any MTBE concentration. Thus, the applicant has failed to demonstrate that the use of MTBE in concentration of 5-15% will not cause or contribute to the failure of any vehicle to meet its certified emissions standards over its useful life.

[6560-01-C]

Table 1

Test Vehicle Description

| Source | Model Year | Make/Model | California/Federal Configuration | Catalyst |
|---|---|---|---|---|
| ARCO | 1976 | Chevrolet Impala | Federal | Oxidation |
| ARCO | 1977 | Volvo 244 DL | California | Three-way |
| ARCO | 1977 | Ford Mustang | California | Oxidation |
| ARCO | 1977 | Ford Pinto | California | Oxidation |
| ARCO | 1978 | Chevrolet Impala | Federal | Oxidation |
| ARCO | 1978 | Ford Pinto | California | Three-way |
| ARCO | 1978 | Pontiac Sunbird | California | Three-way |
| ARCO | 1978 | Buick Lesabre | Federal | Oxidation |
| Ford | 1978 | Ford Bobcat | California | Three-way |
| Ford | 1978 | Ford Fairmont | Federal | Oxidation |
| Ford | 1978 | Ford Granada | California | Oxidation |
| Ford | 1978 | Ford Developmental | Developmental | Three-way |
| Ford | 1978 | Ford Developmental | Developmental | Three-way |
| Ford | 1978 | Ford Fairmont | Federal | Oxidation |
| Ford | 1978 | Ford Light Duty Truck | Federal | Oxidation |
| Ford | 1979 | Ford Thunderbird | Developmental | Three-way |
| GM | 1978 | Pontiac Lemans | California | Oxidation |
| GM | 1978 | Pontiac Sunbird | California | Three-way |
| Texaco | 1977 | Ford LTD II | Federal | Oxidation |
| Texaco | 1978 | Chevrolet Caprice | Federal | Oxidation |
| Texaco | 1978 | Chrysler Lebaron | Federal | Oxidation |
| Shell | 1977 | Chevrolet Nova | Federal | Oxidation |
| Shell | 1978 | Oldsmobile Delta 88 | Federal | Oxidation |
| Shell | 1978 | Buick Skylark | Federal | Oxidation |
| Shell | 1978 | Ford Pinto | California | Three-way |
| GM | 1978 | Oldsmobile | Federal | Oxidation |
| GM | - | Developmental | Developmental | Dual-bed |
| GM | - | Developmental | Developmental | Three-way |
| ARCO | 1978 | Chevrolet Malibu | Federal | Oxidation |

Table 2

90% Confidence Interval for Mean Emission Differences

| | Sample Size | HC (grams/mile) | CO (grams/mile) | NOx (grams/mile) | EVAP. (grams/test) |
|---|---|---|---|---|---|
| Oxidation Catalyst | | | | | |
| Base Fuel + 3% MTBE | 3 | (-.16,-.00)* | (-.88,2.51) | (-.59,.47) | - |
| Base Fuel + 5% MTBE | 1 | - | - | - | - |
| Base Fuel + 7% MTBE | 5 | (-.16,.03) | (-3.20,0.76) | (-.04,.15) | - |
| | 1 | - | - | - | - |
| Base Fuel + 10% MTBE | 11 | (-.23,-.02) | (-3.73,-.73) | (-.12,.09) | - |
| Base Fuel + 15% MTBE | 2 | (-.41,.27) | (-4.19,.50) | (-1.86,1.63) | - |
| Three-Way Catalyst | | | | | |
| Base Fuel + 3% MTBE | 1 | - | - | - | - |
| Base Fuel + 7% MTBE | 3 | (-.06,.01) | (-3.12,1.47) | (-.14,.30) | - |
| Base Fuel + 10% MTBE | 5 | (-.12,.20) | (-1.03,.31) | (-.01,.10) | - |
| Base Fuel + 15% MTBE | 2 | (-.50,.40) | (-9.06,6.96) | (-.38,.34) | - |

*For each, the first number represents the lower bound of the 90% confidence interval and the second number represents the upper bound of the 90% confidence interval.

Table 3

Sign Test Statistics and Confidence Levels For Comparison of Median Emission Levels Between Base Fuel and Various MTBE Concentrations

| Oxidation Catalyst | HC | CO | NOx | EVAP |
|---|---|---|---|---|
| MTBE Concentration | | | | |
| 3% Increases/Observations | 0/3 | 3/3 | 2/3 | - |
| Confidence Level (%) | 87.5 | 0 | 50.0 | - |
| | (D) | (D) | (I) | - |
| 5% Increases/Observations | 1/1 | 0/1 | 1/1 | - |
| Confidence Level (%) | - | - | - | - |
| | (D) | (D) | (I) | - |
| 7% Increases/Observations | 1/5 | 1/5 | 3/5 | 0/1 |
| Confidence Level (%) | 81.25 | 81.25 | 50.0 | - |
| | (D) | (D) | (I) | (I) |
| 10% Increases/Observations | 0/10 | 1/11 | 4/11 | - |
| Confidence Level (%) | 99.9 | 99.4 | 11.3 | - |
| | (D) | (D) | (I) | |
| 15% Increases/Observations | 0/2 | 0/2 | 1/2 | 1/1 |
| Confidence Level (%) | 75.0 | 75.0 | 25.0 | - |
| | (D) | (D) | (I) | (I) |

Table 3 (continued)

Sign Test Statistics and Confidence Levels For Comparison of Median Emission Levels Between Base Fuel and Various MTBE Concentrations

| Three-Way Catalyst | HC | CO | NOx | EVAP |
|---|---|---|---|---|
| MTBE Concentration | | | | |
| 3% Increases/Observations | 1/1 | 1/1 | 1/1 | - |
| Confidence Level (%) | - | - | - | - |
| | (D) | (D) | (I) | |
| 5% Increases/Observations | - | - | - | - |
| Confidence Level (%) | | | | |
| 7% Increases/Observations | 0/2 | 1/3 | 2/2 | - |
| Confidence Level (%) | 75.0 | 50.0 | 75.0 | - |
| | (D) | (D) | (I) | - |
| 10% Increases/Observations | 2/5 | 2/5 | 4/5 | 1/1 |
| Confidence Level (%) | 50.0 | 50.0 | 81.3 | - |
| | (D) | (D) | (I) | (I) |
| 15% Increases/Observations | 1/2 | 1/2 | 1/2 | - |
| Confidence Level (%) | 25.0 | 25.0 | 25.0 | - |
| | (D) | (D) | (I) | |

Table 4

Deteriorated Emission Comparison with Standards (#failures/total#)

| Oxidation Catalyst | HC | CO | NOx |
|---|---|---|---|
| 3% MTBE | 0/3 | 0/3 | 0/3 |
| 5% MTBE | 0/1 | 0/1 | 0/1 |
| 7% MTBE | 1/5 | 0/5 | 0/5 |
| 10% MTBE | 0/7 | 0/7 | 0/7 |
| 15% MTBE | 0/2 | 0/2 | 0/2 |
| Three-way Catalyst | | | |
| 3% MTBE | 0/1 | 0/1 | 0/1 |
| 7% MTBE | 0/3 | 0/3 | 0/3 |
| 10% MTBE | 0/2 | 0/2 | 0/2 |
| 15% MTBE | 0/1 | 0/1 | 0/1 |

[FR Doc. 79-391 Filed 1-4-79; 8:45 am]

[6560-01-M]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 1033-7]

### EMPLOYER MASS TRANSIT AND CARPOOL INCENTIVE PROGRAM IN THE STATE OF TEXAS

#### Enforcement Policy

On July 21, 1977, the Administrator of the Environmental Protection Agency promulgated regulations designed to reduce hydrocarbon emissions and thereby to assist in attainment of the national ambient air quality standard for photochemical oxidants in several areas in Texas. One of these regulations requires employment facilities with 250 or more employees working, at minimum, the same six core hours at a single location and educational facilities of college level or of vocational training above secondary level with 1,000 or more commuters at a single location to implement and maintain an incentive program to encourage and increase use of mass transit and carpools by employees and students. 40 CFR 52.2297 (42 FR 37384). The counties in the State of Texas that are affected are Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties in the Metropolitan Dallas-Fort Worth Intrastate Air Quality Control Region; Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Matagorda, Montgomery, and Waller Counties in the Metropolitan Houston-Galveston Intrastate Air Quality Control Region; Bexar, Comal, and Guadalupe Counties in the Metropolitan San Antonio Intrastate Air Quality Control Region.

The regulation establishes compliance dates and reporting dates based on the facility type and size. Employment facilities with 1,000 or more employees and educational facilities with 5,000 or more commuters had a compliance date of October 1, 1978, and a reporting date of November 1, 1978. Employment facilities with 500 to 999 employees and educational facilities with 1,000 to 4,999 commuters had a compliance date of November 1, 1978, and a reporting date of December 1, 1978. Employment facilities with 250 to 499 employees have a compliance date of December 1, 1978, and a reporting date of January 1, 1979. The reports are to be submitted to the Regional Administrator, Attention: Carpool and Mass Transit Program, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.

Information is being received that a substantial number of employers will not have complied with the regulation by the applicable date. EPA has flexibility and discretion in the manner in which it chooses to enforce the regulation. In an exercise of that discretion the Agency has determined that the following enforcement policy will be used. Following the applicable reporting date, EPA will send a letter to each facility believed to be subject to the regulation that has not submitted a report stating that the report must be submitted within thirty (30) days or a demonstration submitted that the facility is not subject to the regulation. If an adequate response is not received, a notice of violation will be issued to the facility. If the violation extends beyond the thirtieth day after the notification an order will be issued requiring within thirty days. If compliance is not achieved as required by the order, a civil suit will be initiated.

Because we believe that there are a substantial number of employers who do not realize that they are subject to the regulation, we recommend that any employer or educational facility which is uncertain as to the applicability of the regulation to a facility contact us.

Any questions should be directed to the Chief, Air Compliance Branch, Carpool and Mass Transit Program, Enforcement Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270. Telephone calls should be directed to Ms. Joan Brown, (214) 767-2755.

Dated: November 20, 1978.

ADLENE HARRISON
*Regional Administrator.*

[FR Doc. 79-303 Filed 1-4-79; 8:45 am]

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[6560-01-M]

[FRL 1034-7; OPP-00084]

### FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, SCIENTIFIC ADVISORY PANEL

#### Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Thursday and Friday, January 25, and 26, 1979. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Room 803, Crystal Mall, Building No. 2, at the above address (telephone 703/557-7560).

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under section 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Preliminary review of the following draft Subparts of the Guidelines for Registration of Pesticides in the United States: Subpart H—Label Development; Subpart I—Experimental Use Permits. (These subparts are in preparation for proposal in the FEDERAL REGISTER);

2. Final review of FIFRA Section 3(c)(7) interim-final regulations for conditional registration of pesticides;

3. Review of draft final regulations implementing Section 5(f) of the amended FIFRA for State Experimental Use Permits; and

4. In addition, the Agency may pre sent status reports on other ongoing programs of the Office of Pesticide Programs.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm that the Panel will review all of the agenda items. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than January 19, 1979.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is February 21, 22, and 23, 1979.

(Sec. 25(d) of FIFRA, as amended in 1972, 1975, and 1978 (92 Stat. 819; and sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770)).)

Dated: December 28, 1978.

JAMES M. CONLON,
*Acting Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc. 79-390 Filed 1-4-79; 8:45 am]

[6560-01-M]

[FRL 994-8]

## FLOODPLAIN MANAGEMENT AND WETLANDS PROTECTION

### Statement of Procedures

AGENCY: Environmental Protection Agency.

ACTION: Statement of procedures.

SUMMARY: On May 24, 1977, President Carter signed Executive Order 11988 pertaining to "Floodplain Management" and Executive Order 11990 pertaining to "Protection of Wetlands." These Executive Orders will be implemented through this Statement of Procedures which sets forth general policy, criteria, and requirements to be carried out within the Agency. Specific program implementation will be effected through agency regulations and guidance.

DATE: Written comments will be received with respect to this Statement of Procedures. Comments must be received on or before March 6, 1979.

ADDRESS: The mailing address for all comments is the Office of Federal Activities (A-104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; Attention: Thomas Sheckells.

FOR FURTHER INFORMATION CONTACT:

Thomas Sheckells, Office of Federal Activities, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; telephone 202-755-0790.

SUPPLEMENTARY INFORMATION: Executive Orders 11988 and 11990 establish Federal policy to avoid adverse impact on wetlands and floodplains, to minimize destruction, loss, or degradation of wetlands, to preserve and enhance the natural and beneficial values of wetlands, to reduce the risk of flood loss, to minimize the impact of floods on human safety, health, and welfare, and to restore the natural and beneficial value served by floodplains. Federal agencies are required to implement these Executive Orders with regard to acquiring, managing and disposing of Federal property, providing Federally undertaken, financed, or assisted construction, and conducting Federal activities and programs affecting land use. Federal agencies are prohibited from directly or indirectly supporting floodplain development, or otherwise adversely affecting floodplain areas unless it can be demonstrated that there are no practical alternatives to such actions. Federal agencies shall exercise leadership to assure that the intent of these Executive Orders are understood and incorporated into State, Federal and local programs affecting floodplains/wetlands wherever possible.

Dated: December 20, 1978.

DOUGLAS M. COSTLE,
*Administrator.*

STATEMENT OF PROCEDURES

CONTENTS



SECTION 1—*General.* a. Executive Order 11988 entitled "Floodplain Management" dated May 24, 1977, requires Federal agencies to evaluate the potential effects of actions it may take in a floodplain to avoid adversely impacting floodplain wherever possible, to ensure that its planning programs and budget requests reflects consideration of flood hazards and floodplain management, including the restoration and preservation of such land areas as natural undeveloped floodplains, and to prescribe procedures to implement the policies and procedures of this Executive Order. Guidance for implementation of the Executive Order has been provided by the U.S. Water Resources Council in its Floodplain Management Guidelines dated February 10, 1978 (see 40 FR 6030).

b. Executive Order 11990 entitled "Protection of Wetlands", dated May 24, 1977, requires Federal agencies to take action to avoid adversely impacting wetlands wherever possible, to minimize wetlands destruction and to preseve the values of wetlands, and to prescribe procedures to implement the policies and procedures of this Executive Order.

c. It is the intent of these Executive Order that, wherever possible, Federal agencies implement the floodplain/wetlands requirements through existing procedures, such as those internal procedures established to implement the Nationsl Environmental Policy Act (NEPA) and OMB A-95 review procedures. In those instances where the environmental impacts of a proposed action are not significant enough to require an environmental impact statement (EIS) pursuant to Section 102(2)(C) of NEPA, or where programs are not subject to the requirements of NEPA, alternative but equivalent floodplain/wetlands evaluation and notice procedures must be established.

SECTION 2—*Purpose.* a. The purpose of this Statement of Procedures is to set forth Agency policy and guidance for carrying out the provisions of Executive Orders 11988 and 11990.

b. EPA program offices shall amend existing regulations and procedures to incorporate the policies and procedures set forth in this Statement of Procedures.

c. To the extent possible, EPA shall accommodate the requirements of Executive Orders 11988 and 11990 through the Agency NEPA procedures contained in 40 CFR Part 6.

SECTION 3.—*Policy.* a. The Agency shall avoid wherever possible the long and short term impacts associated with the destruction of wetlands and the occupancy and modification of floodplains and wetlands, and avoid direct and indirect support of floodplain and wetlands development wherever there is a practicable alternative.

b. The Agency shall incorporate floodplain management goals and wetlands protection considerations into its planning, regulatory, and decisionmaking processes. It shall also promote the preservation and restoration of floodplains so that their natural and beneficial values can be realized. To the extent possible EPA shall:

(1) Reduce the hazard and risk of flood loss and wherever it is possible to avoid direct or indirect adverse impact on floodplains;

(2) Where there is no practical alternative to locating in a floodplain, minimize the impact of floods on human safety, health, and welfare, as well as the natural environment;

(3) Restore and preserve natural and beneficial values served by floodplains;

(4) Require the construction of EPA structures and facilities to be in accordance with the standards and criteria, of the regulations promulgated pursuant to the National Flood Insurance Program;

(5) Identify floodplains which require restoration and preservation and recommend management programs necessary to protect these floodplains and to include such considerations as part of on-going planning programs; and

(6) Provide the public with early and continuing information concerning floodplain management and with opportunities for participating in decision making including the (evaluation of) tradeoffs among competing alternatives.

c. The Agency shall incorporate wetlands protection considerations into its planning, regulatory, and decisionmaking processes. It shall minimize the destruction, loss, or degradation of wetlands and preserve and enhance the natural and beneficial values of wetlands. Agency activities shall continue to be carried out consistent with the Administrator's Decision Statement No. 4 dated February 21, 1973 entitled

"EPA Policy to Protect the Nation's Wetlands."

SECTION 4—*Definitions.* a. "Base Flood" means that flood which has a one percent chance of occurrence in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

b. "Based Floodplain" means the 100-year floodplain (one percent chance floodplain). Also see definition of floodplain.

c. "Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source, or flooding from any other source.

d. "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters and other floodprone areas such as offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (one percent chance floodplain). The critical action floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

e. "Floodproofing" means modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out or to reduce effects of water entry.

f. "Minimize" means to reduce to the smallest possible amount or degree.

g. "Practicable" means capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors such as environment, community welfare, cost, or technology.

h. "Preserve" means to prevent modification to the natural floodplain environment or to maintain it as closely as possible to its natural state.

i. "Restore" means to re-establish a setting or environment in which the natural functions of the floodplain can again operate.

j. "Wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

SECTION 5—*Applicability.* a. The Executive Orders apply to activities of Federal agencies pertaining to (1) acquiring, managing, and disposing of Federal lands and facilities, (2) providing Federally undertaken, financed, or assisted construction and improvements, and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

b. These Procedures shall apply to EPA's programs as follows:

(1) All Agency actions involving construction of facilities or management of lands or property. This will require amendment of the EPA Facilities Management Manual (October 1973 and revisions thereafter).

(2) All Agency actions where the NEPA process applies. This would include the programs under sections 306/402 of the Clean Water Act pertaining to new source permitting and section 201 of the Clean Water Act pertaining to wastewater treatment construction grants.

(3) All agency actions where there is sufficient independent statutory authority to carry out the floodplain/wetlands procedures.

(4) In program areas where there is no EIS requirement nor clear statutory authority for EPA to require procedural implementation, EPA shall continue to provide leadership and offer guidance so that the value of floodplain management and wetlands protection can be understood and carried out to the maximum extent practicable in these programs.

c. These procedures shall not apply to any permitting or source review programs of EPA once such authority has been transferred or delegated to a State. However, EPA shall, to the extent possible, encourage States to provide equivalent effort to assure support for the objectives of these procedures as part of the State assumption process.

SECTION 6—*Requirements*—a. *Floodplain/Wetlands review of proposed Agency actions.*—(1) *Floodplain/Wetlands Determination*—Before undertaking an Agency action, each program office must determine whether or not the action will be located in or affect a floodplain or wetlands. The Agency shall utilize maps prepared by the Federal Insurance Administration (Flood Insurance Rate Maps or Flood Hazard Boundary Maps), Fish and Wildlife Service (National Wetlands Inventory Maps), and other appropriate agencies to determine whether a proposed action is located in or will likely affect a floodplain or wetlands. If there is no adverse floodplain/wetlands impact identified, the action may proceed without further consideration of the remaining procedures set forth below.

(2) *Early Public Notice*—When it is apparent that a proposed or potential agency action is likely to impact a floodplain or wetlands, the public should be informed through appropriate public notice procedures.

(3) *Floodplain/Wetlands Assessment*—If the Agency determines a proposed action is located in or affects a floodplain or wetlands, a floodplain/wetlands assessment shall be undertaken. For those actions where an environmental assessment (EA) or environmental impact statement (EIS) is prepared pursuant to 40 CFR Part 6, the floodplain/wetlands assessment shall be prepared concurrently with these analyses and shall be included in the EA or EIS. In all other cases, a "floodplain/wetlands assessment" shall be prepared. Assessments shall consist of a description of the proposed action, a discussion of its effect on the floodplain/wetlands, and shall also describe the alternatives considered.

(4) *Public Review of Assessments*—For proposed actions impacting floodplain/wetlands where an EA or EIS is prepared, the opportunity for public review will be provided through the EIS provisions contained in 40 CFR Parts 6, 25, or 35, where appropriate. In other cases, an equivalent public notice of the floodplain/wetlands assessment shall be made consistent with the public involvement requirements of the applicable program.

(5) *Minimize, Restore or Preserve*—If there is no practicable alternative to locating in or affecting the floodplain/wetlands, the Agency shall act to minimize potential harm to the floodplain or wetlands. The Agency shall also act to restore and preserve the natural and beneficial values of floodplains and wetlands as part of the analysis of all alternatives under consideration.

(6) *Agency Decision*—After consideration of alternative actions, as they have been modified in the preceding analysis, the Agency shall select the desired alternative. For all Agency actions proposed to be in or affecting a floodplain/wetlands, the Agency shall provide further public notice announcing this decision. This decision shall be accompanied by a Statement of Findings, not to exceed three pages. This Statement shall include: (i) The reasons why the proposed action must be located in or affect the floodplain or wetlands; (ii) a description of significant facts considered in making the decision to locate in or affect the floodplain or wetlands including alternative sites and actions; (iii) a statement indicating whether the proposed action conforms to applicable State or local floodplain protection standards;

(iv) a description of the steps taken to design or modify the proposed action to minimize potential harm to or within the floodplain or wetlands; and (v) a statement indicating how the proposed action affects the natural or beneficial values of the floodplain or wetlands. If the provisions of 40 CFR Part 6 apply, the Statement of Findings may be incorporated in the final EIS or in the environmental impact appraisal. In other cases, notice should be placed in the FEDERAL REGISTER or other local medium and copies sent to Federal, State, and local agencies and other entities which submitted comments or are otherwise concerned about the Statement of Findings. For floodplain actions subject to Office of Management and Budget (OMB) Circular A-95, the Agency shall send the Statement of Findings to State and areawide A-95 clearinghouses in the geographic area affected. At least 15 working days shall be allowed for public and interagency review of the Statement of Findings.

(7) *Authorizations/Appropriations*—Any requests for new authorizations or appropriations transmitted to OMB shall include, a floodplain/wetlands assessment and, for floodplain impacting actions, a Statement of Findings, if a proposed action will be located in a floodplain or wetlands.

b. *Lead agency concept.* To the maximum extent possible, the Agency shall rely on the lead agency concept to carry out the provisions set forth in section 6.a. above. Therefore, when EPA and another Federal agency have related actions, EPA shall work with the other agency to identify which agency shall take the lead in satisfying these procedural requirements and thereby avoid duplication of efforts.

c. *Additional floodplain management provisions relating to Federal property and facilities.*—(1) *Construction Activities*—EPA controlled structures and facilities must be constructed in accordance with existing criteria and standards set forth under the NFIP and must include mitigation of adverse impacts wherever feasible. Deviation from these requirements may occur only to the extent NFIP standards are demonstrated as inappropriate for a given structure or facility.

(2) *Flood Protection Measures*—If newly constructed structures or facilities are to be located in a floodplain, accepted floodproofing and other flood protection measures shall be undertaken. To achieve flood protection, EPA shall, wherever practicable, elevate structures above the base flood level rather than filling land.

(3) *Restoration and Preservation*—As part of any EPA plan or action, the potential for restoring and preserving floodplains and wetlands so that their natural and beneficial values can be realized must be considered and incorporated into the plan or action wherever feasible.

(4) *Property Used by Public*—If property used by the public has suffered damage or is located in an identified flood hazard area, EPA shall provide on structures, and other places where appropriate, conspicuous indicators of past and probable flood height to enhance public knowledge of flood hazards.

(5) *Transfer of EPA Property*—When property in floodplains is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, EPA shall reference in the conveyance those uses that are restricted under Federal, State and local floodplain regulations and attach other restrictions to uses of the property as may be deemed appropriate. Notwithstanding, EPA shall consider withholding such properties from conveyance.

SECTION 7—*Implementation.* a. Pursuant to section 2, the EPA program offices shall amend existing regulations, procedures, and guidance, as appropriate, to incorporate the policies and procedures set forth in this Statement of Procedures. Such amendments shall be made within six months of the date of these Procedures.

b. The Office of Federal Activities (OFA) is responsible for the oversight of the implementation of this statement of Procedures and shall be given advanced opportunity to review amendments to regulations, procedures, and guidance. OFA shall coordinate efforts with the program offices to develop necessary manuals and more specialized supplementary guidance to carry out this Statement of Procedures.

[FR Doc. 79-389 Filed 1-4-79; 8:45 am]

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[6712-01-M]

## FEDERAL COMMUNICATIONS COMMISSION

### PRIVACY ACT OF 1974

#### Revision of an Existing System of Records

AGENCY: Federal Communicatons Commission.

ACTION: Notification of Revision of Systems of Records No. OED-14, records of money received, refunded, and returned and personal checks destroyed.

SUMMARY: The Federal Communications Commission proposes to revise an existing system of records that was previously published in the FEDERAL REGISTER, April 27, 1978 (Vol. 43, No. 82—Page 18019) as System No. OED-14. This proposed revision is being published for public comment.

DATES: This revison will become effective on February 5, 1979, unless comments are received on or before that date that would result in a contrary determination.

ADDRESS: Comments should be addressed to the Privacy Act Liaison Officer, Records Management Division, Room A-102, Federal Communications Commission, Washington, D.C. 20554. Any comments received may be inspected in Room A-102, 1229—20th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Rex Marshall, Privacy Act Liaison Officer, Room A-102, 1229—20th Street, N.W., Washington, D.C. or call 202-632-7533.

SUPPLEMENTARY INFORMATION: This revision proposes to expand on and clarify the system name and make minor technical changes as indicated in the following system of records notice.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
*Secretary.*

FCC/OED-14

**System name:**

Records of: (1) Cash, Commercial Money Orders, Postal Money Orders, Bank Checks, Bank Cashiers Checks and Personal Checks received as fees for applications for licenses, tariffs, permits, type acceptances of equipment, approvals to operate, etc.; for collections of international maritime radiogram accounts; for forfeitures assessed; for fees for Freedom of Information Act materials or services furnished; for collections for grass, agricultural and other leases; for sales of surplus property; for collection of costs of commercial telephone calls made by employees on official telephones; for collections of bad checks from the public and for other miscellaneous monies received by the FCC. (2) refunds for cash fees transmitted to the FCC during the period when fee collections are suspended; for overpayment by American Shipowners international maritime radiogram accounts; for overpayment of fees for applications for licenses, tariffs, permits, type acceptances of equipment, approvals to operate, etc.; for refunds made under the mandate of a court-of-law; and for overpayment of fees for materials and services furnished under the Freedom of Information Act. (3) return of commercial money orders, postal money orders, bank checks and bank cashiers checks received as fees for applications for licenses, tariffs, type acceptances of equipment, approvals to operate, etc. during the period

of time that collection of fees was suspended by the FCC, and under any fee collection procedures approved by the FCC.

**System location:**

1919 M Street, N.W., Washington, D.C. 20554; 334 York Street, Gettysburg, Pa. 17325; and Room 207, Post Office Building, Gettysburg, Pa. 17325, and various other temporary locations.

**Categories of individuals covered by the system:**

Individuals and companies making payments to cover goods acquired, forfeitures assessed, and services rendered; refunds for incorrect payments or overpayments; billing and collection of bad checks; and miscellaneous monies received by the Commission.

**Categories of records in the system:**

Names of individuals or companies; addresses of individuals or companies; goods acquired or services rendered; forfeitures assessed and collected; amounts; dates; check numbers; locations; bank deposit information; transaction type information; United States Treasury deposit numbers; ship name and call sign; and information substantiating a refund issued to applicant.

**Authority for maintenance of the system:**

Budget and Accounting Act of 1921; Budget and Accounting Procedures Act of 1950; and 31 U.S.C. 525.

**Routine uses of records maintained in the system, including categories of users and the purpose of such uses:**

Accounting for all monies received by the Commission from the Public, refunded to the Public, returned to the public, and release of the information to Federal, State, or local Government agencies performing a tax, investigative, or regulatory function.

**Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:**

*Storage:* Paper copy, computer copy, microfilm, microfiche, magnetic disc, and magnetic tape.

**Retrievability:**

By name and/or type of transaction; call sign; processing number, employer identification number, soundex number, or sequential number.

**Safeguards:**

Records are located in lockable metal file cabinets, metal vaults, and in metal file cabinets in secured rooms or secured premises, with access limited to those individuals whose official duties require access.

**Retention and disposal:**

Retained for one year following the end of the fiscal year; then transferred to Federal Archives Records Center in accordance with Commission's Record Management System.

**System manager(s) and address:**

Executive Director, Office of Executive Director, 1919 M Street, N.W. Washington, D.C. 20554

**Notification procedure:**

Same as above.

**Record access procedure:**

Same as above.

**Contesting record procedures:**

Same as above.

**Record source categories:**

Subject individual and/or company; Federal Reserve Bank; Agent of Subject or company; or Attorney-At-Law.

[FR Doc. 79-641 Filed 1-4-79; 8:45 am]

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[6712-01-M]

## FEDERAL COMMUNICATIONS COMMISSION

[SS Docket Nos. 78-387; 78-388; File Nos. 127-M-L-107; 120-M-L-38]

### VEGAS INSTANT PAGE ET AL.

**Order; Designating Applications for Consolidated Hearing on Stated Issues**

Adopted: December 19, 1978.

Released: December 27, 1978.

1. The above-captioned applications are for authority to operate Class III-B Public Coast Stations to serve Lake Mead in Nevada. The applicants propose to use the same frequency to serve the same area; therefore, the applications are mutually exclusive by operation of the rule limiting duplication of service (Section 81.303). Accordingly, it is necessary to designate the applications for hearing to determine which, if any, application should be granted. Except for the issues specified herein, the applicants are otherwise qualified.

2. Lake Mead was previously served by Public Coast Class III-B station KLU 743 under license to The Telephone Company, Inc. (TTC). After extensive investigation of a number of licenses held by TTC and the man who controls TTC, Arthur W. Brothers, the Commission revoked TTC's Lake Mead license. *The Telephone Co., Inc., et al.*, 65 FCC 2d 605 (1977). Because the Commission's decision was appealed to the U.S. Court of Appeals, the revocation order did not become effective until May 21, 1978. TTC was permitted by the Commission's decision to operate KLU-743 for 180 days after the effective revocation date. Inasmuch as this time has expired, it is our intention to proceed as expeditiously as possible in order that this valuable service at Lake Mead may be continued.

3. The applications properly before us now are the applications of Vegas Instant Page of Las Vegas, Nevada and Nancy L. May of Zephyr Cove, Nevada[1] (file numbers as appearing in the caption).

4. A person named Nancy L. May formerly worked with Arthur W. Brothers and was at one time president and major shareholder of The Telephone Co., Inc. See Initial Decision, FCC 75D-41 released August 7,1975, *The Telephone Company, Inc., et al.*, 66 FCC 2d 855, 861, 871 (1977). In this proceeding, it must be determined whether TTC's Nancy L. May is the same person as the applicant Nancy L. May and if so, it must be determined what relationship exists between Nancy May and Arthur W. Brothers with respect to the application of Nancy L. May and whether Nancy May has the character qualifications necessary to be a Commission licensee in light of her involvement in The Telephone Company case cited *supra*.

5. In view of the foregoing, IT IS ORDERED, pursuant to the provisions of Section 309(e) of the Communications Act of 1934, as amended, That the above-captioned applications are hereby designated for a hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following issues:

(a) To determine if Nancy L. May, the applicant is the same person as Nancy L. May, former officer of The Telephone Company, Inc. and if so, to determine (1) any relationship that may exist between Nancy L. May and Arthur W. Brothers with respect to her subject application; and (2) the suitability of Nancy L. May to be a licensee of the Commission;

(b) To determine which applicant would provide the public with better public coast station service based on the following considerations:

(1) Coverage area and its relationship to the greatest number of potential users;

(2) Hours of operation;

(3) Rates and charges;

(4) Ability to participate actively in the safety system;

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[1] In addition to the two applications designated for hearing here, three other applications were timely filed with the Commission. Two applications (File Nos. 86-M-L-107 and 56-M-L-38) filed by Arthur W. Brothers were dismissed by the Safety and Special Radio Services Bureau Chief on June 20, 1978, citing Section 1.916 of the Commission's rules. An Application for Review of this dismissal was denied by The Commission by Memorandum Opinion and Order, released December 14, 1978. In addition, the application of Phillips Wyman, File No. 7-M-L-97, was dismissed without prejudice by the Commission on October 23, 1978, at the applicant's request.

(5) Personnel available to operate the station and their experience in marine communications; and

(6) Interconnection with landline facilities.

(c) To determine, in light of the evidence adduced on the foregoing issue, whether the public interest, convenience and necessity will be served by a grant of one of the subject applications.

6. IT IS FURTHER ORDERED, That the burden of proceeding with the introduction of evidence and the burden of proof on issue (a) is on Nancy L. May; and on all other issues, the burdens are on each applicant with respect to the application, except issue (c) which is conclusory.

7. IT IS FURTHER ORDERED, That to avail themselves of an opportunity to be heard, Vegas Instant Page and Nancy L. May, pursuant to Section 1.221(c) of the Commssion's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

FEDERAL COMMUNICATIONS COMMISSION,
CARLOS V. ROBERTS,
*Chief, Safety and Special Radio Services Bureau.*

[FR Doc. 79-459 Filed 1-4-79; 8:45 am]

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[6730-01-M]

## FEDERAL MARITIME COMMISSION

[Docket No. 78-58]

### CONDITIONAL APPROVAL OF AGREEMENT NO. 5600-36

#### Order To Show Cause

Agreement No. 5600-36 would amend the existing organic agreement of the Philippines North America Conference and its member lines (PNAC) by establishing a neutral body self-policing system to replace PNAC's existing self-policing system.[1] By Order dated April 26, 1978, the Commission conditioned its approval of Agreement No. 5600-36 by requiring that: (1) PNAC agree to keep on file with the Commission a current copy of its contract with the neutral body plus a statement of the neutral body's qualifications; and (2) the Agreement be modified to provide that nothing in it shall prohibit the release of confidential information by the neutral body to the Commission pursuant to an order or subpoena.[2] On May 30, 1978, PNAC filed a Petition for Reconsideration of the Commission's April 26, 1978 Order. On September 28, 1978, the Commission issued on Order on Reconsideration wherein it denied PNAC's Petition for Reconsideration, affirmed its April 26, 1978 Order, and notified PNAC that Agreement No. 5600-36 would be disapproved unless PNAC either conformed its Agreement to the conditions set forth in the April 26, 1978 Order, or conformed it to Part 528 of the Commission's Rules, or submitted an unequivocal request for a hearing within sixty days. PNAC has requested such a hearing.[3]

*Therefore, it is ordered,* That pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814), and in accordance with section 502.66 of the Commission's Rules (46 C.F.R. 502.66), the Phillippines North America Conference is order to show cause why Agreement No. 5600-36 should not be disapproved on the grounds that it contains inadequate provisions for self-policing, as stated in the Commission's Order on Reconsideration of September 28, 1978; and

*It is further ordered,* That this proceeding is limited to the submission of relevant affidavits of fact and memoranda of law. Should the Phillippines North America Conference believe that an evidentiary hearing is required, it must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove those facts, any why such proof cannot be submitted through affidavit. A request for hearing shall be filed no later than February 16, 1979; and

*It is further ordered,* That the Bureau of Hearing Counsel be a party to this proceeding; and

*It is further ordered,* That the affidavits and memorandum of law of the Philippines North America Conference be filed no later than January 23, 1979 and that a reply memorandum of law and any supporting affidavits be filed by the Bureau of Hearing Counsel no later than February 9, 1979; and

*It is further ordered,* That all documents submitted in this proceeding be filed with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, in an original and 15 copies, and otherwise conform to the Commission's Rules of Practice and Procedure. 46 C.F.R. Part 502; and

*It is further ordered,* That notice of this Show Cause Order be published in the FEDERAL REGISTER and that a copy thereof be served upon the Philippines North America Conference and its member lines; and

*It is further ordered,* That nothing contained in this Order shall operate to exempt the Philippines North America Conference from any requirement imposed by Part 528 of the Commission's Rules, as revised.

By the Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc. 79-496 Filed 1-4-79; 8:45 am]

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[1] Agreement No. 5600-36 also would replace Article 18 of the existing agreement, entitled "Faithful Performance", with a new, revised "Faithful Performance" clause, and would renumber various articles without altering their content.

[2] This modification would make Agreement No. 5600-36 consistent with PNAC's existing, approved organic agreement, paragraph 16(I) of which provides, in part, that:

[T]he prohibition on releasing Conference Documents to non-members shall not be construed to prohibit the release of such documents to the appropriate governmental agency pursuant to an order of that agency or one of its administrative law judges, including orders relating to discovery and production of documents.

Paragraph 18(F) of the Agreement No. 5600-36 as submitted by PNAC provides for the handling of confidential self-policing information by the neutral body as follows:

F. *Confidential Information.* (1) The Neutral Body will under no circumstances disclose the name of the complainant to the respondent or anyone else, including the Neutral Body's agents, unless specifically authorized to do so by the complainant.

(2) The Neutral Body will treat all information received during investigations regardless of the sources, as confidential and will not divulge any such information to anyone, except in reporting breaches found and damages assessed to the Chairman and then only to the extent that the Neutral Body itself deems appropriate. Similarly, the Chairman, Conference employees and members who received information in accordance with the provisions of this Article will treat such information as confidential and will not divulge such information to anyone.

PNAC apparently would interpret this paragraph as *requiring* the neutral body to *defy* a lawful order or subpoena from the Commission.

[3] On November 27, 1978, PNAC filed the "Petition for Reconsideration and, Alternatively, for Hearing" (Petition). To the extent that the Petition sought reconsideration of the Commission's September 28, 1978 Order on Reconsideration, it was denied. *See Conditional Approval of Agreement No. 5600-36—Order,* served simultaneously herewith.

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[6730-01-M]

### EXEMPTION NO. 24

**Exemption—Puget Sound Tug & Barge Co. Carriage of Miscellaneous Cargoes Between Ports in the Contiguous Continental United States (Except Ports in the Mississippi River System Above Baton Rouge, La.) and Prudhoe Bay on the Arctic Coast of Alaska**

An Application for extension of the currently existing exemption from the Intercoastal Shipping Act, 1933, and the Shipping Act, 1916, and regulations applicable thereto, for miscella-

neous cargoes transported between all ports in the contiguous Continental United States (except ports in the Mississippi River System above Baton Rouge, Louisiana) on the one hand and on the other, the Arctic Coast of Alaska between Beechey Point, Tigvariak Island (Prudhoe Bay) via the Gulf of Alaska, the Bering Sea and the Arctic Ocean, was filed by Puget Sound Tug & Barge Company (PSTB). Notice of the application appeared in the FEDERAL REGISTER on April 3, 1978.

The applicant requests that its present exemption be extended indefinitely or at least for a period of six years beyond 1978. The effect of such an exemption would be a continuation of authority to provide transportation by barge to the area involved with freedom from tariff filing requirements and regulation with respect to the reasonableness of rates.

PSTB states that the continuation of the exemption for an indefinite period or at least six years is due, in part, to the proposed construction of the natural gas pipeline from Alaska's Prudhoe Bay through Canada to the United States by Northwest Alaskan Pipeline Company which is estimated to be under construction by 1980, with completion set for 1983. Continuation of the exemption is also necessary, according to PSTB, to permit the movement of cargoes to further develop the oil fields. Between the years of 1970, and 1978, the Commission has granted the applicant and its predecessors, yearly and three-year exemptions from tariff filings and regulatory rate requirements of the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933. The last of these exemptions is due to expire with December 31, 1978.

PSTB's petition for extension was intially protested by Sea-Land Service, Inc., which later withdrew its opposition. Statements in support of the application were received from the major shippers using the service: Atlantic Richfield Company, Northwest Alaskan Pipeline Company, Sohio Petroleum Company and Exxon Company, U.S.A. Each of the supporting statements indicates a continuing need for the service to both fully develop the Prudhoe Bay oil fields and to develop the new natural gas pipeline.

Upon review of the application, the Commission finds that the conditions under which the exemptions were intially granted and subsequently renewed have not substantially changed. The Commission, therefore, will approve a three-year extenstion in lieu of the requested six years beyond 1978. The continuation of the requested exemption by Purget Sound Tug & Barge, would not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discrimatory or be detrimental to commerce.

The Commission further reviewed the reports submitted pursuant to predecessor extensions of their exemptions (Exemption No. 12 and thereafter). In light of the contents of the reports, and a desire to reduce paperwork burdens whenever and wherever possible, it has determined that the reporting requirement should be discontinued. The termination of the reporting requirement is made without prejudice to the Commission's right to seek the information and data pursuant to section 21 of the Shipping Act, 1916.

Therefore, pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 553 and sections 35 and 43 of the Shipping Act, 1916, 46 U.S.C. 833(a) and 841(a):

It is ordered, that the tariff filing requirements of the Intercoastal Shipping Act, 1933, the Shipping Act, 1916, as amended, and previous report filing requirements that are applicable through December 31, 1978 (41 Fed. Reg. 6070), shall not apply to direct transportation by water between ports in the contiguous continental United States (excluding ports in the Mississippi River system above Baton Rouge, Louisiana) and Purdhoe Bay, Alaska of miscellaneous cargoes (including liquid in bulk) provided by Puget Sound Tug & Barge Company for a period commencing with the publication of this exemption in the FEDERAL REGISTER and ending with December 31, 1981.

This exemption granted herein supersedes and takes the place of the currently effective exemption and shall become effective January 5, 1979.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc. 79-415 Filed 1-4-79; 8:45 am]

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[6730-01-M]

[Independent Ocean Freight Forwarder License No. 60]

**MID-AMERICA SHIPPING SERVICE, JOSEPH C. SCHREIBER D.B.A.**

**Order of Revocation**

The bond issued in favor of Mid-America Shipping Service, Joseph C. Schreiber d/b/a, 327 S. LaSalle Street, Chicago, Illinois 60604, FMC No. 60, was cancelled effective November 25, 1978.

By letter dated November 3, 1978, Mid-America Shipping Service, Joseph C. Schreiber d/b/a was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 60 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Mid-America Shipping Service, Joseph C. Schreiber d/b/a has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) section 5.01(d) dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 60 be and is hereby revoked effective November 25, 1978.

It is further ordered, that Independent Ocean Freight Forwarder License No. 60 issued to Mid-America Shipping Service, Joseph C. Schreiber d/b/a be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon Mid-America Shipping Service, Joseph C. Schreiber d/b/a.

ROBERT G. DREW,
*Director, Bureau of Certification and Licensing.*

[FR Doc. 79-414 Filed 1-4-79; 8:45 am]

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[6210-01-M]

**FEDERAL RESERVE SYSTEM**

**FEDERAL OPEN MARKET COMMITTEE**

**Authorization for Foreign Currency Operations**

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below paragraph 1a of the Committee's Authorization for Foreign Currency Operations as amended on December 14, 1978.

1. The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York, for System Open Market Account, to the extent necessary to carry out the Committee's foreign currency directive and express authorizations by the Committee pursuant thereto, and in conformity with such procedural instructions as the Committee may issue from time to time:

A. To purchase and sell the following foreign currencies in the form of cable transfers through spot or forward transactions on the open market at home and abroad including transactions with the U.S. Treasury, with the

U.S. Exchange Stabilization Fund established by Section 10 of the Gold Reserve Act of 1934, with foreign monetary authorities, with the Bank for International Settlements, and with other financial institutions:

Austrian schillings
Belgian francs
Canadian dollars
Danish kroner
Pounds sterling
French francs
German marks
Italian lire
Japanese yen
Mexican pesos
Netherlands guilders
Norwegian kroner
Swedish kroner
Swiss francs

By order of the Federal Open Market Committee, December 28, 1978.

MURRAY ALTMANN,
*Secretary.*

[FR Doc. 79-412 Filed 1-4-79; 8:45 am]

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[6210-01-M]

### MY ANNS CORP.

#### Formation of Bank Holding Co.

My Anns Corporation, Piqua, Kansas, 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 per cent or more of the voting shares of Piqua State Bank, Piqua, Kansas. The factors that are considered in acting on the applicaton 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. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 22, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1978.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc. 79-499 Filed 1-4-79; 8:45 am]

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[6210-01-M]

### NEISEN BANCSHARES, INC.

#### Formation of Bank Holding Company

Neisen Bancshares, Inc., Watkins, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 83.6 percent or more of the voting shares of Farmers State Bank of Watkins, Watkins, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 28, 1978.

GRIFFITH L. GARWOOD,
*Deputy Secretary of the Board.*

[FR Doc. 79-411 Filed 1-4-79; 8:45 am]

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[6820-38-M]

### GENERAL SERVICES ADMINISTRATION

[Temporary Regulation F-479]

#### FEDERAL PROPERTY MANAGEMENT REGULATIONS

#### Delegation of Authority

1. *Purpose.* This regulation delegates authority to the secretary of defense to represent the interests of the executive agencies of the Federal Government in a telephone rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Arkansas Public Service Commission involving the application of the General Telephone Company of the Southwest for an increase in rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

PAUL E. GOULDING,
*Acting Administrator of General Services.*

DECEMBER 20, 1978.

[FR Doc. 79-468 Filed 1-4-79; 8:45 am]

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[6820-38-M]

[Temporary Regulation F-478]

#### FEDERAL PROPERTY MANAGEMENT REGULATIONS

#### Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense in conjunction with the Administtator of General Services to represent the interests of the executive agencies of the Federal Government in a ratemaking proceeding before the Montana Public Service Commission involving the Montana Power Company.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense in conjunction with the Administrator of General Services to represent the consumer interests of the executive agencies of the Federal Government before the Montana Public Service Commission involving the application of the Montana Power Company for an increase in natural gas rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

PAUL E. GOULDING,
*Acting Administrator of General Services.*

DECEMBER 19, 1978.

[FR Doc. 79-469 Filed 1-4-79; 8:45 am]

[6820-38-M]

[Temporary Regulation F-477]

## FEDERAL PROPERTY MANAGEMENT REGULATIONS

### Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense in conjunction with the Administrator of General Services to represent the interests of the executive agencies of the Federal Government in a rate revision proceeding before the Maryland Public Service Commission involving the Baltimore Gas and Electric Company.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense in conjunction with the Administrator of General Services to represent the consumer interests of the executive agencies of the Federal Government before the Maryland Public Service Commission involving the application of the Baltimore Gas and Electric Company for revisions in gas, electric, and steam rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

PAUL E. GOULDING,
*Acting Administrator of General Services.*

DECEMBER 19, 1978.

[FR Doc. 79-470 Filed 1-4-79; 8:45 am]

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[6820-38-M]

[Intervention Notice 77]

## PACIFIC GAS & ELECTRIC CO., CALIFORNIA PUBLIC UTILITIES COMMISSION

The Administrator of General Services seeks to intervene in a proceeding before the California Public Utilities Commission involving an application of Pacific Gas and Electric Company for an increase in revenues from its gas and electric operations. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, NW., Washington, D.C. 20405, telephone 202-566-0726, on or before February 5, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: December 20, 1978.

PAUL E. GOULDING,
*Acting Administrator of General Services.*

[FR Doc. 79-471 Filed 1-4-79; 8:45 am]

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[4110-03-M]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[Docket No. 78N-0436]

## IVY-REED CO., INC.

### Steer-oid; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces an opportunity for hearing on its proposed refusal to approve a new animal drug application submitted by Ivy-Reed Co., Inc. for the use of estradiol benzoate in combination with progesterone in food-producing animals on ground that the drug is not shown to be safe.

DATES: A written appearance requesting hearing must be submitted by February 5, 1979; data and analysis upon which the request for hearing relies must be submitted by March 6, 1979.

ADDRESS: Written appearances and data and analyses to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Woodrow M. Knight, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3134

SUPPLEMENTARY INFORMATION: The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) is issuing a notice of opportunity for hearing on a proposed refusal to appprove new animal drug application (NADA) No. 110-315 submitted by Ivy-Reed Co., Inc., 433 Commercial Ave., Palisades Park, NJ 07650, for Steer-oid, a product containing 20 milligrams (mg) of estradiol benzoate in combination with 200 mg of progesterone per dose implanted subcutaneously in the ear of cattle for growth promotion and feed efficiency, in accordance with section 512(d)(1) (A), (B), and (D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1) (A), (B), and (D)) on grounds that:

(A) The investigations, reports of which are required to be submitted to the Secretary pursuant to subsection (B) [of section 512 of the act], do not include adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof;

(B) the results of such tests [as have been submitted] * * * do not show that such drug is safe for use under such conditions; [and]

* * * * *

(D) upon the basis of the information submitted * * * as part of the application, [and other information before the agency] with respect to such drug, [the Director] has insufficient information to determine whether such drug is safe for use under such conditions.

Elsewhere in this issue of the FEDERAL REGISTER, under Docket No. 78N-0434, the Director is issuing a notice of opportunity for hearing on the proposal to withdraw approval of approved NADA 9-576 for a product (Synovex S, the generic equivalent of Steer-oid) containing estradiol benzoate in combination with progesterone for use in food-producing animals.

Ivy-Reed Co., Inc. submitted its NADA for Steer-oid on June 3, 1977. Thereafter, it submitted amendments on August 9, August 13, September 1, October 11, and October 26, 1977. The date of submission of the last amendment constitutes the filing date of the application under § 514.6 of the animal drug regulations (21 CFR 514.6). The data submitted by Ivy-Reed demonstrate that its product, Steer-oid, is the generic equivalent of Synovex S, a product marketed by Syntex Laboratories, Inc. under approved NADA 9-576. Ivy-Reed did not submit any data to demonstrate that use of the drug will not result in unsafe residues in human food. Accordingly, its NADA for Steer-oid was found incomplete under § 514.100(g) of the regulations (21 CFR 514.100(g)), and the firm was so notified by letters dated February 1, and May 18, 1978. Ivy-Reed never requested the issuance of a notice of opportunity for hearing, as permitted by § 514.100(g), but instead sought

FDA permission to market Steer-oid, pending the development of data either by Syntex or Ivy-Reed to demonstrate that use of the drug will not result in unsafe residues in human food. By letters dated June 27, and August 21, 1978, the Deputy Commissioner of Food and Drugs rejected Ivy-Reed's proposal and announced the agency's intention to issue notices of opportunity for hearing proposing to refuse to approve Ivy-Reed's NADA for Steer-oid and to withdraw approval of Syntex's NADA for Synovex S and NADA's for all products containing estradiol benzoate in combination with progesterone, estradiol benzoate in combination with testosterone propionate, and estradiol monopalmitate for use in food-producing animals. Thereafter, Ivy-Reed brought suit in the United States District Court for the District of New Jersey (*Ivy-Reed Co., Inc.* v. *FDA*, Civ. A. No. 78-2658) seeking an order directing FDA to approve its NADA for Steer-oid. On December 7, 1978, the Court refused to issue the order requested by Ivy-Reed and ordered FDA to issue the notice required by section 512(c) of the act either approving the application or giving the applicant notice of opportunity for a hearing.

The Director acknowledges that Steer-oid is the generic equivalent of Synovex S. However, neither Ivy-Reed nor Syntex Laboratories has submitted data to demonstrate that the use of this drug in food-producing animals will not result in unsafe residues in human food. Without such information, Ivy-Reed's NADA is not approvable. The Director is incorporating by reference into this notice Sections II through V of the companion notice published elsewhere in this issue of the FEDERAL REGISTER under Docket No. 78N-0434 concerning Syntex Laboratories' NADA 9-576 for Synovex S as the basis for refusing to approve Ivy-Reed's NADA 110-315 for Steer-oid.

Therefore, notice is given to Ivy-Reed Co., Inc., and to any other interested persons who may be adversely affected, that the Director is giving an opportunity for a hearing under section 512(c)(2) of the act on a proposal to issue an order under section 512(d)(1) (A) (B), and (D) of the act refusing to approve NADA 110-315 for a product containing estradiol benzoate in combination with progesterone for use in food-producing animals.

Ivy-Reed, being the holder of filed NADA 110-315, or any other interested person who elects to exercise the right to an opportunity for hearing under section 512(c) of the act and § 514.200 of the regulations (21 CFR 514.200) must file with the Hearing Clerk (address given above) a written appearance requesting a hearing and giving the reason why the application should be approved.

The failure of the applicant to file a timely written appearance and a request for hearing as required by § 512.200 constitutes an election not to take advantage of the opportunity for hearing, and the Director will summarily enter a final order refusing approval of the application.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the information and factual analyses in the request for hearing that there is no genuine and substantial issue of fact that precludes the refusal to approve the application, or when a request is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests a hearing, making findings and conclusions, denying a hearing.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practicable.

Individuals requesting a hearing must, on or before February 5, 1979, submit a written appearance requesting a hearing to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857; data and analysis upon which the request relies must be submitted by March 6, 1979. Four copies of all submissions under this notice must be filed, identified with the Hearing Clerk docket number found in brackets in the heading of this documents. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, responses to this notice and copies of published literature included by reference in this notice may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) 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).

Dated: December 29, 1978.

TERENCE HARVEY,
*Acting Director, Bureau of Veterinary Medicine.*

[FR Doc. 79-409 Filed 1-2-79; 12:55 pm]

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**[4110-03-M]**

[Docket No. 78N-0434]

**SYNTEX LABORATORIES, INC., AND MATTOX & MOORE, INC.**

**Synovex-S, Synovex-H, and Esmopal; Opportunity for Hearing**

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is announcing an opportunity for hearing on a proposed withdrawal of approved new animal drug applications (NADA's) providing for the use of products containing estradiol benzoate in combination with progesterone, estradiol benzoate in combination with testosterone propionate, and estradiol monopalmitate for use in food-producing animals on ground that the products are not shown to be safe.

DATES: A written appearance requesting hearing must be submitted February 5, 1979. Data and analysis upon which a request for hearing relies must be submitted by March 6, 1979.

ADDRESS: Written appearances and data and analyses to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Woodrow M. Knight, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3134.

SUPPLEMENTARY INFORMATION: The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (FDA) is issuing a notice of opportunity for hearing on a proposal to withdraw approval of the following approved NADA's for products containing estradiol benzoate in combination with progesterone, estradiol benzoate in combination with testosterone propionate, and estradiol monopalmitate for use in food-producing animals in accordance with section 512(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)(1)(B)) on the ground that new evidence not available when the applications were approved, evaluated together with the evidence available at the time of approval, shows that these drugs are not shown to be safe under the conditions of use prescribed in the labeling:

(1) NADA's 9-576 and 11-427, Syntex Laboratories, Inc., 3401 Hillview Dr., Palo Alto, CA 94304; and

(2) NADA 13-187, Mattox & Moore, Inc., 1503 East Riverside Dr., Indianapolis, IN 46207.

Elsewhere in this issue of the FEDERAL REGISTER, under Docket No. 78N-0435, the Director is proposing to revoke the appropriate sections providing for the use of the products affected by the proposed withdrawal. Also in this issue of the FEDERAL REGISTER, under Docket No. 78N-0436, the Director is issuing a notice of opportunity for hearing on the proposal to refuse to approve NADA 110-315 for a product (Steer-oid, the generic equivalent of NADA 9-576) containing estradiol benzoate in combination with progesterone for use in food-producing animals.

## I. THE DRUGS

Synovex-S (21 CFR 522.1940), NADA 9-576, is a combination of 200 milligrams (mg) of progesterone and 20 mg of estradiol benzoate per dose implanted subcutaneously in the ear of cattle for growth promotion and feed efficiency. Synovex-H (21 CFR 522.842), NADA 11-427, is a combination of 200 mg of testosterone propionate and 20 mg of estradiol benzoate per dose implanted subcutaneously in the ear of heifers for growth promotion and feed efficiency. Both products are not to be used within 60 days of slaughter. Esmopal (21 CFR 522.844), NADA 13-187, contains 10 mg of estradiol monopalmitate injected into roasting chickens to produce more uniform fat distribution and improve finish. The drug is not to be used within 6 weeks of slaughter.

Synovex-S was first approved in 1956; Synovex-H, in 1958; and Esmopal, in 1964. At that time, the available methods of analysis were deemed adequate to ensure that no unsafe residues of these drugs would be present in food as a result of use of the drugs. Subsequently, new data became available leading the Director to conclude that more sensitive assays were necessary to ensure the safe use of these products. The sponsors of the NADA's were asked to provide more adequate methods. They have failed to do so. Accordingly, the Director is issuing this notice of opportunity for hearing on the proposed withdrawal of approval of these NADA's.

## II. REQUIREMENTS FOR SAFE USE OF DRUGS IN FOOD-PRODUCING ANIMALS

### A. GENERAL REQUIREMENTS

Section 512(b) of the act requires that the use of a drug in food-producing animals be safe for the animal and that the edible portions of the animal (tissue, milk, eggs) be safe for human consumption. To demonstrate human safety, an application must be supported by adequate data demonstrating, among other things, that use of the drug will not result in unsafe residues in human food. Residues as defined in section 512(b) of the act include both the parent drug and metabolites, i.e., any substance formed in or on food as a result of the drug's use.

The following three components are required to demonstrate human safety for exogenous compounds administered to food-producing animals; these three components may also be used to demonstrate human safety for endogenous compounds:

(1) The level of residues in human food that can be considered safe must be demonstrated by appropriate toxicological feeding studies in test animals;

(2) The level of residues present in the edible tissues of food-producing animals treated with the drug and their rates of depletion must be demonstrated by appropriate methods of analysis to establish conditions of safe use of the drug; and

(3) If a drug is shown to be safe only under certain conditions of use, an appropriate regulatory method of analysis must be provided for monitoring compliance with the conditions of safe use.

The limit of reliable measurement of the analytical methods described in (2) and (3) above must be low enough to detect and measure residue levels at and above those shown to be safe by the available toxicity data. The limit of measurement of an assay is the level or concentration of residues below which the assay yields no interpretable result. All assays have such a limit of measurement, and this limit can be objectively established by experimentation for any given assay. Knowledge of the limit of measurement of a proposed assay is critical to an evaluation of the assay's acceptability since its represents the level of residue that will go undetected when edible animal products are examined after animals are treated with a compound having the potential to contaminate these products with toxic residues.

### B. REQUIREMENTS FOR ENDOGENOUS COMPOUNDS

In making food safety decisions, the act requires evaluation of all substances formed in or on food by the administration of a compound to food-producing animals. It is well known that several compunds naturally present in (i.e., endogenous to) animals used for food are known to exhibit toxic properties, including carcinogenicity (Ref. 1). It is not know whether exposure to the normal, background levels of of such endogenous substances constitutes a health hazard to humans. Accordingly, the Director views any substance that can increase these normal background levels as having the potential for increasing the risk of toxicity, including carcinogenesis, to humans. Such substances can be use in food-producing animals only if, under the prescribed conditions of use, the levels of affected endogenous substances of toxic concern are shown to satisfy the food safety requirements of section 512 of the act and, if necessary, an assay is provided that is capable of reliably determining compliance with the established conditions of use.

In the case of administered compounds having the potential to increase normal background levels of endogenous substances of toxic concern, the safety requirement can be operationally demonstrated in either of two ways:

(1) The normal background levels of affected endogenous substances of toxic concern must be shown to be restored before treated animals are taken for slaughter; or

(2) Levels of the affected endogenous substance of concern must be at or below a prescribed level above the normal background levels. The prescribed level is any concentration of residues above that level that was demonstrated safe by available toxicological data.

To accomplish (1) above, the normal background levels ("norms") of the potentially affected endogenous substances of concern must be established in untreated animals. Effects of the administered drug on these norms must be established. This approach is based on analysis for the endogenous substances of concern and requires no toxicity testing. The safety requirements are operationally satisfied when the norm is restored. This approach to an operational definition of safety differs conceptually from that in effect for exogenous drugs because the residues of concern are naturally present in treated animals and cannot be controlled in the same way as residues resulting from exogenous drugs.

To accomplish (2) above, the levels of the endogenous substances of concern that are shown, using appropriate safety factors, to be safe must be established on the basis of the available toxicity data. An increment above the norm is permitted, as long as the increment does not exceed the level corresponding to the established safe level.

### C. RESIDUE LEVELS OF NO TOXICOLOGICAL CONCERN

Historically, FDA has used no-effect levels observed in feeding studies in several test animal species, multiplied by an appropriate safety factor, to establish a safe level of drug residues in human food. No-effect levels from 90-day feeding studies are multiplied by a safety factor of 0.0005 and an experi-

mental animal-to-man conversion factor to arrive at a safe level in human food. When residues are present primarily in organ tissues or fat, a larger factor may be applied, based upon the lower frequency of consumption of these tissues compared to muscle tissue. Irrespective of the calculated levels, an upper limit of 0.1 part per million (ppm) is placed on a tolerance for muscle derived from 90-day feeding studies. No-effect levels from chronic feeding studies in appropriate species are multiplied by a safety factor of 0.01. Animal drugs that are demonstrated or suspected carcinogens must be tested in chronic feeding studies in two rodent species. Certain drugs that are intended to be widely used or that incur high levels of residues in edible tissues of food-producing animals may also be required to undergo carcinogenicity testing. Maximum permitted levels of residues of a carcinogen are those corresponding to a lifetime risk of cancer no greater than one in one million in humans, calculated using the linear extrapolation described by Gross et al. (1970) and by Hoel et al. (1975) (Refs. 2 and 3). Certain hormonally active agents may be regulated on the basis of an observed no-effect level using a sensitive parameter of their hormonal activity. Generally, a safety factor of 0.0005 is used to establish a safe level of residues from these studies.

#### D. ENDOGENOUS COMPOUNDS OF TOXICOLOGICAL CONCERN

Treatment of a food-producing animal with an endogenous compound can be expected, through metabolic transformation, feedback mechanisms, etc., to have a significant effect on the levels of many related compounds in the edible tissues of treated animals in addition to the obvious effect on the levels of the administered drug itself (Refs. 4, 5, and 6). Before the sponsor of an endogenous drug can begin to satisfy the food safety requirements of section 512 of the act by one of the procedures discussed above, FDA will attempt to define which of the other affected endogenous compounds, in addition to the administered drug, are of toxicological/carcinogenic concern. The agency will attempt to make this decision for each drug after the sponsor has provided information available in its files, as well as an outline of data available in the published literature, on the identity and toxicity of all endogenous compounds whose levels are known to be affected by administration of its drug. However, the sponsor may be required to develop additional data if the available information is inadequate.

The background levels of endogenous substances of toxicological/carcinogenic concern may vary widely within a given breed or species and are affected by such factors as age, sex, state of estrus, pregnancy, and geographic location. The norm is not, therefore, a single level but rather a distribution of levels obtained from a sampling of animals. Accordingly, it must be determined whether a shift in the norm occurs. The requirement for the assay's limit of measurement is, in the case of such endogenous substances, defined according to a criterion based on the norm. This point is elaborated in the detailed requirements in section IV of this document.

### III. DATA AVAILABLE ON THE TOXICITY OF SYNOVEX-S, SYNOVEX-H, AND ESMOPAL AND THE SAFETY OF THEIR REGULATED CONDITIONS OF USE

The active ingredients in Synovex-S are estradiol benzoate, a compound prepared by the chemical combination of estradiol-17-beta with benzoic acid, and progesterone. The active ingredients in Synovex-H are estradiol benzoate and testosterone propionate, a compound prepared by the chemical combination of testosterone and propionic acid. The active ingredient in Esmopal is estradiol monopalmitate, a compound prepared by the chemical combination of estradiol-17-beta and palmitic acid. Estradiol-17-beta, progesterone, and testosterone are major steroidal sex hormones produced primarily in the gonads of mammals, and there is evidence that the derivatives of estradiol-17-beta and testosterone in the approved products are rapidly transformed into the parent, naturally occurring hormones by enzyme systems in the treated animals (Ref. 6). Therefore, the Director presumes that the residues of concern in assessing risks to human health incurred by the use of Synovex-S, Synovex-H, and Esmopal are those associated with the endogenous hormones and their biotransformation products. (The quantitative aspects of the hydrolysis to parent hormones is an issue that the sponsors must address to demonstrate the conditions of safe use of their products.) In any case, information relating to the toxicity and carcinogenicity of estradiol-17-beta, progesterone, and testosterone, as well as their metabolites of concern, is directly relevant to an assessment of the three drugs that are the subject of this notice.

#### A. SYNOVEX-S

The original submission for Synovex-S provided for a dose of 1,250 mg of progesterone and 50 mg of estradiol-17-beta, intended for use in steers and heifers. Residue data in the original submission were rejected because they were developed in cattle that had been implanted with other hormone-containing pellets.

Thereafter, new tissue-residue data were provided from steers implanted with 1,500 mg of progesterone and 50 mg of estradiol-17-beta 87 days before slaughter. No residues were found in any edible tissue using a chemical method for each hormone with a claimed sensitivity of 10 parts per billion (ppb). Using a bioassay sensitive to about 250 ppb, no progesterone was found in any tissue. A bioassay for estrogenic activity detected about ppb of residues in liver tissue from treated animals. The sponsor then changed its formulation to contain 1,000 mg of progesterone and 20 mg of estradiol-17-beta. In 1956, the application was approved.

Subsequently, Syntex submitted a supplemental application to replace the 20 mg of estradiol-17-beta with 20 mg of estradiol benzoate. In 1958, the sponsor again supplemented its application requesting that the amount of progesterone in the implant be reduced from 1,000 to 200 mg. Both supplemental applications contained residue studies for estrogenic activity using a bioassay whose claimed sensitivity of 5 ppb was rejected by FDA mainly because the standard curve was not properly prepared. No residues were found using this method. Finally, in 1962 the firm submitted additional residue data. By means of the same bioassay of questionable sensitivity described above, no estrogenic activity was found in muscle, liver, kidney, or fat or steers implanted with 1, 5, and 10 times the recommended dose.

#### B. SYNOVEX-H

The original submission for synovex-H provided for an implant for heifers containing 200 mg of testosterone propionate and 20 mg of estradiol benzoate. A chick comb assay for testosterone propionate residues sensitive to 1 ppm and the mouse uterine assay for estrogenic activity sensitive to 2 ppb were used to demonstrate no measurable residues in the edible tissues of heifers sacrificed 89 days following implantation. The drug was approved in 1958. In 1962, residue studies were performed in heifers that were dosed with 10 times the recommended amounts of drugs and sacrificed after 32 days. No residues were found using these methods.

#### C. ESMOPAL

The original submission for Esmopal provded for an implant for roasting chickens containing 10 mg of estradiol monopalmitate. Mattox & Moore submitted the results of three residue depletion studies in chickens treated with Esmopal using a modification of the mouse uterine assay developed by Umberger et al. (Ref. 7). No significant increase in estrogenic activity was observed at any time in the livers of

birds treated with the label-recommended dose. Slightly elevated levels of estrogen were observed in the livers of birds treated at twice the approved use level of the drug at 3 weeks but not at 6 weeks following injection.

Although there was experimental evidence as early as 1916 that estrogens can be potent carcinogens, this evidence was generally discounted by the scientific community, including scientists in the agency at thme time of these approvals, because of a prevalent assumption that humans should be able to ingest endogenous compounds at the low levels believed to be present in treated food-producing animals without experiencing toxic effects.

In the succeeding years, FDA has acquired data from other sources relating to the potential toxicity of endogenous hormones. Information on the physiology and pharmacology of endogenous hormones has accumulated in the scientific literature as a result of active research programs at many industrial and academic laboratories. As the potent biological properties of hormones have become more clearly defined, concern about their potential pathogenic effects as residues in human food as grown accordingly.

For example, the accumulated evidence supporting a prominent role for endogenous hormones in the etiology of certain types of cancer, including human cancer, is now sufficient to be convincing to most scientists with expertise in this field (Ref. 8). In the case of human breast cancer, the evidence includes the infrequent incidence of breast cancer prior to puberty; protection against breast cancer by castration at young ages; the favorable clinical response of many breast cancers to ablation of ovaries or adrenals or to treatment with androgens; and the induction of carcinomas in males on estrogen therapy, with Klinefelter's syndrome, or with high urinary estrogen concentration (Ref. 9).

Once a role for the endogenous hormones in the etiology of certain types of cancer is accepted, the results of experiments in animals demonstrating a relationship between the incidence of tumors and exogenously administered hormones acquire much greater significance. Evidence to demonstrate this relationship up to 1974 has been summarized by the International Agency for Research on Cancer in a monograph evaluating the carcinogenic risk of sex hormones to man. The authors discuss more than a dozen reported studies with progesterone, estradiol, and estrone (a major metabolite of estradiol), and more than six experiments with testosterone (Ref. 10). These studies demonstrate the carcinogenicity of estradiol and estrone, and the cocarcinogenicity associated with progesterone and testosterone. There have been additional experiments since 1974 supporting these basic results (Ref. 11).

Concern about the safety of residues resulting from the use of hormones in food-producing animals is not limited to a consideration of their potential for increasing the risk of cancer in humans. Specific biological activities of hormones include the well-known ability of progesterone to interfere with reproduction via a number of mechanisms, including suppression of ovulation (Ref. 6); the masculinization effects of testosterone, especially on the fetus; and the broad spectrum of effects of estradiol on bone, coagulation factors, cardiovascular disease, and libido in the male (Ref. 6).

As the evidence accumulated implicating exogenousiy administered endogenous hormones as potentially toxic substances, there has been a corresponding increase in concern at FDA about the adequacy of the safety information supporting use of these hormones in food-producing animals. As a result, the agency undertook a number of investigations on hormones, including feeding studies with hormones and hormonomimetic agents in C$_3$H/HEJ mice at the National Center for Toxicological Research (NCTR) at Jefferson, AK. Incomplete results of a preliminary study with orally administered estradiol-17-beta in this species demonstrate a significant, dose-related relationship between administered estradiol-17-beta and the number of malignant mammary tumors in the mice. Furthermore, the number of malignant lesions in the reproductive organs of the high-dose group of animals was increased over controls (Ref. 12). When a final report of the results of this preliminary study has been completed, it will be made available to all interested parties.

In addition to the feeding studies at NCTR, FDA contracted for outside studies on the metabolism of estradiol-17-beta-3 benzoate in steers and heifers. These studies were conducted by Dr. Gordon D. Niswender of Colorado State University and Drs. P. N. Rao and J. W. Goldzieher of the Southwest Foundation for Research and Education (Refs. 13 and 14). The results of the Colorado study indicate that estradiol-17-beta is the major residue in muscle and fat. However, the Southwest study indicates that 17-alpha estradiol-17-beta-D-glucopyranoside is the major estrogen residue in liver.

FDA also established a policy for the regulation of endogenous compounds used as drugs in food-producing animals. The broad outline of the "endogenous policy" is presented in section II of this document. Details are discussed in the following section as part of a critique of the available safety data supporting the use of the three animal drugs that are the subject of this notice.

In addition, FDA issued a formal requirement to the sponsors of these drugs to upgrade the safety data supporting the regulated uses of their products. In a letter sent to Syntex on September 22, 1972, FDA required the firm to provide residue data obtained using more sensitive analytical methodology than the current official assays, in vivo dissolution data for implanted pellets, a practical regulatory assay suitable for monitoring the prescribed conditions of safe use of the drugs, and data establishing a safe withholding period during which implanted animals could not be slaughtered for human food. In May 1974, scientists from the agency and the firm met to discuss progress made by the sponsor in developing these data. There was general agreement that the firm was making satisfactory progress. At a second meeting in November 1975, agency scientists asked the sponsor to hold in abeyance any ongoing metabolism studies with radioactive drugs, except in specific instances where metabolic clearance data for compounds and their metabolites may require such tracer studies. The firm was told to concentrate its efforts instead on developing radioimmunoassays (RIA) for hormone residues in the edible tissues of treated animals.

On September 2, 1976, because of the lack of reported data development, FDA sent another letter to Syntex requesting a written progress report within 30 days and additional detailed reports at 6-month intervals thereafter. The first three progress reports, dated November 23, 1976, May 18, 1977, and December 13, 1977, described attempts at developing residue RIA's that fell short of the agency's criteria for acceptablility of this type of analytical methodology and appeared to be inferior to similar methodology being reported from other laboratories.

On June 21, 1978, the firm was informed that FDA was considering preparation of a notice of opportunity for a hearing on a proposal to withdraw approval of NADA's for the use of Synovex-S and Synovex-H. On June 28, 1978, the firm submitted a fourth progress report describing improved RIA methodology for estradiol-17-beta, estrone, and progesterone in bovine tissues. Information was also provided on the levels of these hormones in the edible tissues of untreated steers and in animals that had been implanted with Synovex-S. The residue data provided in the June 28 submission were apparently not obtained using the new methods. A total of 20 control- and 20 Synovex-S-treated steers were used. Five animals from

each group were slaughtered at 30, 60, 90, and 120 days post implantation and the four major edible tissues were analysed for estradiol-17-beta and estrone. Progesterone was measured only in fat tissue. The results indicate that levels of estradiol-17-beta are significantly elevated in fat of treated steers for at least 90 days following implantation. Levels of estrone are significantly elevated above the controls in fat for 120 days after implantation. Progesterone was significantly elevated above its control level in fat 60 days following implantation. Thus, preliminary residue information in the June 28, 1978 submission demonstrates that the levels of estradiol-17-beta, estrone, and progesterone are significantly raised above their norms in treated animals at the label recommended time of slaughter. The increased levels of these endogenous agents have not been shown to be safe.

Validation data, although incomplete, were provided for the new methods and indicated that they may be sensitive and reliable enough to establish normal levels of the three hormones in cattle. However, they do not meet the agency's current criteria for regulatory assays because of a lack of a confirmatory procedure and incomplete validation data in certain tissues. The methods were also considered to be impractical for regulatory work because of the time required to perform an assay. Accordingly, the firm's request in the June 28 letter to accept the methods for method validation trials in government laboratories, a necessary prerequisite for approval as a regulatory method, is denied.

In a letter sent to Mattox & Moore dated August 18, 1972, FDA required the firm to provide residue data obtained using analytical methodology that was more sensitive than the current official assay for estrogenic activity. Several meetings were held between representatives of Mattox & Moore and FDA at which the firm agreed to develop the required data and a more sensitive analytical method. Several protocols for experiments were submitted and evaluated and, in November 1973, the firm provided FDA with the incomplete results of a metabolism study obtained by feeding tritiated estradiol-17-beta monopalmitate to chickens. Mattox & Moore submitted a residue study in chickens treated with parent drug labeled with $^{3}H$ in the $C_6$ and $C_7$ positions of the estradiol ring. Radioactivity in liver tissues of birds treated with the label recommended doses of $^{3}H$-Esmopal was divided into three fractions—free estrogens, neutral lipids including Esmopal, and conjugated estrogens—constituting 11, 51, and 38, respectively, of the recovered radioactivity. Estrone, estradiol, 16-ketoestrone, 16-ketoestradiol, and estriol were tentatively identified in the free and conjugated fractions. Because metabolite identification was not sufficiently rigorous and a number of radioactive compounds were not identified, this study may be useful only as an indication that metabolites of estradiol are present in the livers of Esmopal-treated chickens. Other edible tissues of chickens would have to be examined to complete this phase of the safety data requirements for the drug. The more sensitive analytical methods for residues that were requested in August 1972 have still not been provided to FDA by Mattox & Moore.

In addition to the data developed by the firms, a number of studies have appeared in the scientific literature that demonstrate the levels of residues that might be expected following treatment of steers and heifers with Synovex-S and Synovex-H, respectively. Only the most pertinent experiments, i.e., those in which RIA's were used to measure tissue levels of estradiol-17-beta, estrone, progesterone, and/or testosterone in untreated cattle, as well as animals implanted with these hormones, are cited here. It should be emphasized that none of the published reports used assays that have been shown to meet the criteria outlined below for acceptability as an assay to define a norm, or to serve as a regulatory method.

In 1976, Hoffmann et al. and Hoffmann and Karg reported the following results from tissue assays on six male calves implanted with 200 mg of progesterone and 20 mg of estradiol-17-beta and slaughtered 72 days later (Refs. 15 and 16):

AVERAGE TISSUE LEVEL AND STANDARD DEVIATION OF MALE CALVES

| Hormone | Tissue | Control (n=5) (ng/g) | Treated (n=6) (ng/g) |
|---|---|---|---|
| Estrone | Muscle | 0.075±0.038 | 0.084±0.065 |
| | Liver | 0.204±0.088 | 0.271±0.144 |
| | Kidney | 0.047±0.038 | 0.081±0.081 |
| | Fat | 0.275±0.084 | 0.252±0.183 |
| Estradiol-17-beta | Muscle | 0.133±0.143 | 0.177±0.149 |
| | Liver | 0.073±0.136 | 0.108±0.071 |
| | Kidney | 0.011±0.010 | 0.029±0.087 |
| | Fat | 0.129±0.057 | 0.104±0.087 |
| Progesterone | Muscle | 0.247±0.087 | 0.515±0.364 |
| | Liver | 0.269±0.110 | 0.325±0.057 |
| | Kidney | 0.456±0.211 | 0.619±0.154 |

In 1977, Hoffmann et al. used RIA to measure testosterone levels in female calves implanted with 200 mg of testosterone and 20 mg of estradiol-17-beta and sacrificed 71 days later (Ref. 16). The reported results are as follows:

AVERAGE TESTOSTERONE LEVELS AND STANDARD DEVIATION OF HEIFER CALVES

| Tissue | Control (n=5) (pg/g) | Treated (n=5) (pg/g) |
|---|---|---|
| Muscle | 16±13 | 70±43 |
| Liver | 38±18 | 47±12 |
| Kidney | 256±110 | 685±54 |
| Fat | 178±118 | 340±265 |

The Director concludes that data available in the literature are consistent with those provided by Syntex in its June, 1978 submission in that they both indicate tat Synovex-S and Synovex-H cause an increase in the norms of endogenous hormones of toxicological concern under the approved conditions of use.

## IV. CRITIQUE OF THE AVAILABLE DATA RELATED TO THE CONDITIONS OF SAFE USE OF SYNOVEX-S, SYNOVEX-H, AND ESMOPAL

### A. TOXICITY DATA

The experiments cited in section III of this document, in which endogenous hormones were administered to animals, demonstrate that administered estradiol-17-beta, progesterone, and testosterone have the potential to cause toxic, including carcinogenic (estradiol-17-beta, estrone) and co-carcinogenic (progesterone, testosterone), effects in the exposed animals. Furthermore, as discussed above, there is evidence supporting the relevance to humans of the studies conducted in animals. The Director realizes that almost all of the experiments with endogenous hormones were conducted using relatively large doses administered parenterally. The Department also knows that estradiol-17-beta, progesterone, and testosterone are many times less potent upon oral administration than when given parenterally (Ref. 6). However, the data available do not demonstrate the safety of these compounds present as residues. For

example, with the possible exception of the feeding study conducted with estradiol-17-beta at NCTR, none of the available studies on carcinogenicity provide data on which an extrapolation to a one-in-one-million lifetime risk of cancer in humans can be based. Furthermore, none of the information that has come to the attention of the Director is adequate to identify a no-effect level for orally administered estradiol-17-beta, progesterone, or testosterone that could be used to establish tolerances for residues of these drugs. In summary, the available information raises serious questions concerning human safety.

B. RESIDUE STUDIES

Sponsors of animal drugs must show, in addition to toxicity studies to demonstrate a safe or acceptable risk level of residues, that their products can be used in such a way that incurred residues are at or below those levels shown to be safe at the time of slaughter. One way to do this for endogenous compounds is to establish normal background levels of the compounds of concern and then determine the perturbation of these levels incurred by using the drug. A four-step data collection process is requied: (1) establishment of normal background levels ("norms") of the endogenous compounds of carcinogenic or toxicological concern in the treated animals; (2) determination of the effects, if any, of the sponsored compound on the norms; (3) establishment of safe conditions of use of the sponsored compound by demonstrating how the compound can be used in a way that ensures that the norm is restored in the treated animals before slaughter, or, alternatively, if safe levels have been established by toxicity studies, by demonstrating that the residues in treated animals have been restored to a safe increment above the norm; and (4) development and validation of a practical assay to measure the marker endogenous compound(s) levels determined to represent a restored norm. A norm must be specific for the untreated animals and for the intended conditions of animal husbandry. The norm should be provided in the form of a cumulative frequency distribution of the observed levels of the endogenous compound. This curve should also include the upper 99-percent confidence bounds.

The median and shape of the frequency distribution must be known so that shifts in the norm can be measured. Tor this reason, the assay used to determine a norm must yield values for the endogenous compound different from zero for at least two-thirds of the untreated animals. This latter requirement is a compromise between the need to determine the frequency distribution with a high degree of reliability and, at the same time, to recognize the difficulties that may be encountered in reliably measuring the levels at the lower end of the distribution.

The sponsor should then determine the effects of the sponsored compound on the norm, and provide the data on the return to back ground of any observed increases in the norm. To determine characteristics of the distribution of the individual values that constitute the norm with a high degree of confidence (99 percent), a large number of target animals, both treated and untreated, is ordinarily required. The Director estimates that 450 to 500 animals will be required for (1) 99-percent confidence that the 99th percentile of the norm is less than the largest observed value; and (2) 99-percent confidence that the cumulative frequency distribution of the untreated animals and cumulative frequency distribution of the treated animals do not differ by more than 0.10 at any specific point on the cumulative frequency distributions. The information developed in (1) will be used to monitor compliance; the information developed in (2), to evaluate restoration of the norm. The Kolmogorov-Smirnov two-sample test is particularly well suited to test whether the norm for the sample of untreated animals and the values for the sample of treated animals came from the same population (i.e., there was no effect due to treatment with the drug) (Ref. 18). This test is concerned with the agreement between two cumulative distributions. This test is sensitive to any type of difference in the distributions from which the two samples (treated and untreated) were taken (e.g., differences on location (mean, median, etc.), differences in variation, differences in skewness, etc.). The only assumptions are that the samples are random; are mutually independent; and are from a continuous population.

If the norm of an endogenous substance of carcinogenic concern can be increased by the administration of a drug, the endogenous substance can become an endogenous marker residue, i.e., its presence above certain levels can be considered an indicator of potentially carcinogenic or toxic residues in food. Approval of the use of such a drug is contingent upon the sponsor's furnishing data demonstrating that the norms are restored in the target animals before slaughter (as described above) and, if it is shown to be necessary, the availability of a practical assay that can measure the endogenous marker residue in target animals. Such a regulatory assay must be capable of measuring the marker residue at an above the level corresponding to the 33d percentile of its norm. This level is the required limit of measurement of the regulatory assay.

The edible tissue in which the norm of the marker residue requires the longest time for restoration becomes the target tissue. The regulatory assay must be shown capable of reliably measuring the marker residue in the target tissue at the above-described limit of measurement and at levels above this limit.

C. FAILURE OF THE OFFICIAL ANALYTICAL METHODS TO MEET CURRENT CRITERIA OF ACCEPTABILITY FOR REGULATORY ASSAYS

It is premature to discuss the required level of measurement of a regulatory method of analysis for an endogenous drug in the absence of a demonstrated safe or acceptable risk level of residues or in the absence of data defining the norms of residues of toxicological concern. Nevertheless, it is necessary to point out that if the use of any one of these three drugs is shown to require a regulatory assay, the currently approved methods for estrogenic, progestational, and androgenic activity in edible tissues are inadequate. The inadequacies are discussed for each of these drugs as follows:

1. *Estradiol benzoate and estradiol palmitate.* The official method of examination prescribed for the quantitative determination of estradiol benzoate (21 CFR 556.240) and estradiol monopalmitate (21 CFR 556.250) is the biological assay of E. J. Umberger et al. published in "Endocrinology," Volume 63, page 806 (1958), popularly known as the mouse uterine assay (MUA). This assay involves the feeding of tissue to be assayed (the test tissue), which has been fortified with known quantities of estradiol, to immature mice and comparing the increase in uterine weight to that of mice fed a control tissue (tissue from animals known not to have been exposed to an exogenous source of estradiol) fortified with known quantities of estradiol.

One problem with the MUA is that it is not specific for estradiol. Because the assay measures estrogenic activity, any estrogen present in the test tissue will give a response. Furthermore, the limit of measurement with the MUA is about 2 ppb. Based on limited information, sensitivity to 2 ppb is not low enough to monitor the tissue levels of estradiol in animals that are at or near two standard deviations above the mean background level (Ref. 19). In addition, the MUA is affected by factors such as the amount of fat in the diet. In fact, this problem is so difficult to control that it is desirable to obtain test and control animals from groups fed identical diets except for the test substance. One cannot casual-

ly select the control tissue (Ref. 20). Finally, the MUA is very time consuming. Preparation of the diet is difficult and must be performed with exacting care. Contamination of cages and feed cups must be prevented. Dissection of the uteri is tedious and difficult. The time required for completion of a tissue analysis is about 20 days, if a preliminary range-finding assay and a confirmatory assay are conducted. It is not practical to wait 20 days before a residue analysis report on a carcass can be completed. For these reasons, the Commissioner of Food and Drugs stated in the FEDERAL REGISTER of January 12, 1976 (41 FR 1804) that the MUA was unacceptable as a regulatory method for DES and stated the intention to revoke the method at the conclusion of the DES hearing.

2. *Progesterone.* The official method of examination presented for the quantitative determination of progesterone (21 CFR 556.540) is that of Hooker and Forbes published in "Endocrinology," volume 41, page 158 (1947). The method involves extraction of progesterone from edible tissues and injection of the extract into uterine horns of ovariectomized mice. The intra-uterine test for progesterone in the mouse has disadvantages that seriously restrict its usefulness. Perhaps the greatest of these are the time and labor required. The total time needed for the injection of both uterine horns is rarely less than 15 minutes even for experienced analysts. Preparing 20 mice thus becomes a full day's work. Although the intensity of the response increases as the amount of injected progesterone increases, it has not thus far been possible to grade the response. The result is that the reaction has had to be treated on an all-or-none basis that necessitates the identification of the minimal effective amount in a series of dilutions of the same material. A first approximation is possible if only one uterine horn is injected. In this situation, a bilateral response indicates that more than 0.004 micrograms (μg) of progesterone has been given. If the response is given only by the treated segment, the amount injected is not less than 0.0002 μg or more than 0.0005 μg of pregesterone. Depending on the size of tissue sample extracted, this will correspond to a sensitivity of approximately 10 ppb for residues of progesterone.

Another disadvantage of this method is the care needed to assess the sections of the test segment. It is essential that the observer differentiate the stromal nuclei from the glandular nuclei in both the untreated and treated ovariectomized mice. It has proved helpful, and sometimes necessary, for the observer to refresh his or her memory by reviewing known preparations of both types immediately before attempting to evaluate a test preparation.

3. *Testosterone propionate.* The official method of examination prescribed in the quantitative determination of testosterone propionate (21 CFR 556.710) is published in "Methods in Hormone Research," New York Academic Press, Volume II, Page 286 (1962). Residues are extracted from edible tissues with ethyl alcohol, and the extract is applied to the comb of day-old chicks daily for 7 days. The response is expressed as the ratio of comb weight to body weight following sacrifice of the chicks 24 hours after the last dose. This method has the same deficiencies noted above for the Hooker-Forbes method for progesterone. The sensitivity of the assay is claimed to be about 10 ppb in the hands of an experienced analyst. This method is difficult and tedious to carry out, even by properly trained personnel.

Furthermore, no U.S. Department of Agriculture (USDA) residue monitoring laboratory is now equipped to conduct these bioassays for steroid hormones. They are therefore considered to be impracticable for regulatory work.

### D. REQUIREMENTS FOR REGULATORY ASSAYS

A regulatory assay is evaluated and validated using data collected from three types of samples:

(1) Samples containing various known concentrations of marker residue (the marker residue in this case being the endogenous substance(s) that can be used to monitor the return to norm or the established safe level above the norm of all endogenous substances of toxicological concern whose levels are changed by the administered compound) added to the target tissue, i.e., the fortified tissue samples.

(2) Samples containing various levels of the marker residue obtained from target tissue at appropriate time intervals after the sponsored compound is administered in accordance with the label directions, i.e., "dosed" tissue samples.

(3) Samples obtained from untreated animals, i.e., "control" tissues samples.

The petition for approval of the proposed regulatory assay shall contain a complete description of the assay; a list of all necessary equipment and reagents; a standard curve prepared from samples of the marker residue of known purity; an analytical curve of the observed assay response versus the tissue concentrations of the marker residue in fortified target tissue. The curve shall include the 99-percent confidence bounds of a single assay response; all raw data and worksheets from the analysis used in preparing the standard curve, including spectrograms, chromatograms, counting data, etc.; and a discussion of the data generated in the assay development process pertinent to the evaluation criteria set forth in the following paragraphs and an explanation of how the data show that the proposed assay conforms to those criteria.

A regulatory assay must be dependable, practicable, specific, accurate, and sensitive. It shall be considered dependable if it does not result in an unreasonable number of failures due to unknown, uncontrollable, or random factors. Evaluation of the data to support the dependability criterion is based on the total number of assay runs that are started to provide data points for the analytical curve described above.

The assay shall be considered practicable only if it is suitable for routine use in a government regulatory laboratory. The time required to complete the assay must be consistent with regulatory objectives of monitoring and compliance activities. All supplies, equipment, reagents, standards, and other materials necessary to conduct the assay must be commerically available, although reference standards may be supplied by the petitioner if they are not commercially available. The Director will withdraw approval of any assay an initiate regulatory action against a new animal drug if the sponsor breaches such a condition of its approval.

The assay shall be considered specific if the observed response is a smooth and continuously decreasing or increasing function of the concentration of the marker residue and that compound only. The regulatory assay must be comprised of a sufficient number of independent measurements based on different biological, biochemical, or physiochemical principles to ensure that the identity of the marker residue is confirmed.

The assay shall be considered accurate if the measurements of yields are normally no less than 60 percent nor greater than 110 percent of the marker residue's true concentration in the spiked target tissues.

A regulatory assay to be used for monitoring restoration of the norm for an endogenous compound must measure reliably the 33d percentile of the norm.

The Director will review and evaluate the data submitted by the sponsor in accordance with the requirements outlined above. If the Director concludes that the assay satisfies these criteria, the Director will then have it subjected to an interlaboratory validation study. Two FDA laboratories and one USDA laboratory will independently run a number of assays to ascertain whether the regulatory assay

method conforms to the criteria set forth in preceding paragraphs.

The sponsor shall supply the validating laboratories with the number and amount of doses and control tissue samples required by the Director, and reagents, standards, supplies, and equipment not readily available to the validating laboratories, as requested by the Director.

The Director will evaluate the data gathered by the interlaboratory validation study described above. The assay shall be approved if it meets the criteria set forth above in each of the three validating laboratories.

## V. Specific Requirements To Demonstrate Conditions of Safe Use of Synovex-S, Synovex-H, and Esmopal

The following specific steps of data collection illustrate the nature of the missing information that must be provided in order to demonstrate the conditions of safe use of Synovex-S, Synovex-H, and Esmopal. Alternative approaches to developing the information required will be acceptable only if there will be no loss of reliability in the final demonstration of safety.

The steps of data collection in the approximate order they should be undertaken are as follows:

### A. Literature Search

Section 510.300 of the animal drug regulations (21 CFR 510.300) requires the sponsor of any drug to be cognizant of reports in the published scientific literature describing the physiological, pharmacological, toxicological, and chemical effects of administering the sponsored compounds to animals and inform FDA of any such report that bears on the safety or efficacy of its NADA. Therefore, Syntex, Inc., should undertake a search of the scientific literature on the following topics:

(1) The metabolism of estradiol-17-beta, progesterone, and testosterone in cattle and of estradiol-17-alpha in humans;

(2) Hormonal no-effect levels in laboratory animals and humans of orally administered estradiol-17-beta, progesterone, and testosterone and of the major metabolites of these hormones that occur in edible bovine tissues;

(3) The results of studies relevant to the potential carcinogenicity and cocarcinogenicity of estradiol-17-beta, estrone, progesterone, and testosterone; and

(4) Other information bearing on the safety of the administered hormones and other endogenous compounds whose levels are known to be altered by use of the administered compound.

Likewise, Mattox & Moore should undertake a search of the scientific literature on the following topics:

(1) The metabolism of estradiol-17-beta and estradiol-17-beta-monopalmitate in roasting chickens;

(2) Hormonal no-effect levels in laboratory animals and humans of orally administered estradiol-17-beta and estradiol-monopalmitate and of the major metabolites of these hormones that occur in edible roasting chicken tissue;

(3) The results of studies relevant to the potential carcinogenicity of estradiol-17-beta, estrone, and estradiol-monopalmitate; and

(4) Other information bearing on the safety of estradiol-monopalmitate and other endogenous compounds whose levels are known to be altered by the use of estradiol-monopalmitate.

Any new information that becomes available as a result of the literature searches may change FDA's current requirements for demonstrating the conditions of safe use of Synovex-S, Synovex-H, and Esmopal. However, based on the information currently available, the Director considers residues of the following endogenous compounds to be of toxicological concern:

(1) Estradiol-17-beta, estrone, and progesterone in the edible tissues of steers following use of Synovex-S;

(2) Estradiol-17-beta, estrone, and testosterone in the edible tissues of heifers following use of Synovex-H; and

(3) Estradiol-17-beta and estrone in the edible tissues of chickens following use of Esmopal.

In addition, if ingested estradiol-17-alpha is shown to be metabolized to estrone by humans, the safety of residues of this endogenous compound in Synovex-S-treated heifers must be evaluated. Finally, the persistence of testosterone propionate and estradiol monopalmitate as residues in the edible tissues of treated animals should be determined by their sponsor. (These data are available for estradiol benzoate.)

After completing the literature search discussed above, sponsors should proceed with the data collection steps under B or C below, depending on the manner in which they elect to demonstrate the safety of their products.

### B. Data Required To Demonstrate Restoration of Norms

(1) Development of analytical methodology for compounds of toxicological concern that meet the criteria outlined above for methods to define norms of endogenous compounds;

(2) Using the methods developed in (1), demonstration of the norms for compounds of toxicological concern;

(3) Using the same analytical methods developed in (1), demonstration of the time following treatment with drug when the norms of compounds of toxicological concern are restored; and

(4) If necessary, upgrading or development of an analytical method to meet the more stringent (e.g. practicality) criteria required of regulatory methods.

### C. Data Required To Demonstrate Levels of Residues Above the Norms That Are Safe

(1) Experimental determination, using suitable parameters in appropriate test animals, of hormonal no-effect levels for each endogenous compound of toxicological concern for which adequate information is not available in the literature;

(2) FDA intends to use the data developed from lifetime feeding studies conducted with estradiol-17-beta at NCTR to extrapolate to a level of this hormone associated with a one-in-one-million lifetime risk of cancer in humans. However, if for some reason the available data are inadequate to serve as the basis for the planned extrapolation, the burden of providing data to assess the carcinogenic risk associated with residues of estradiol-17-beta will fall on the sponsors of these drugs; and

(3) Analytical methods to establish the time following treatment with drug when residue levels of endogenous compounds of concern are at or below their demonstrated safe levels must be developed. Any necessary withholding period following treatment must be established. Finally, one or more of these methods must be developed as an acceptable regulatory method.

Until results of the studies listed above have been submitted and evaluated, the Director is unable to establish "safe" levels of residues, or to specify practical conditions of use to ensure that there are no unsafe residues attributable to the use of these drugs, as the Director is required to do under the act.

### References

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### CONCLUSION

Therefore, notice is given to the firms listed above and to any other interested persons who may be adversely affected that the Director is giving an opportunity for a hearing on a proposal to issue an order under section 512(e)(1)(B) of the act withdrawing approval of NADA's for products containing estradiol benezoate in combination with progesterone, estradiol benzoate in combination with testosterone propionate, and estrodial monopalmitate for use in food-producing animals.

Any holder of an approved application or any other interested person who elects to exercise the right to an opportunity for hearing under section 512(e)(1) of the act and § 514.200 of the regulations (21 CFR 514.200) must file with the Hearing Clerk (address given above) a written appearance requesting a hearing and giving the reason why the application(s) should not be withdrawn.

The failure of the applicant(s) to file a timely written appearance and a request for hearing as required by § 514.200 constitutes an election not to take advantage of the opportunity for hearing, and the Director will summarily enter a final order withdrawing approval of the application(s).

A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the information and factual analyses in the request for hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the application(s), or when a request is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests a hearing, making findings and conclusions, denying a hearing.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practicable.

Individuals requesting a hearing must, on or before February 5, 1979, submit a written appearance requesting a hearing to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857; data and analysis upon which the request relies must be submitted by March 6, 1979. Four copies of all submissions under this notice must be filed, identified with the Hearing Clerk docket number found in brackets in the heading of this document. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, responses to this notice and copies of each reference cited in this notice not appearing in journals designated by §§ 310.9 and 510.95 (21 CFR 310.9 and 510.95) are on file with the Hearing Clerk and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

The Director has carefully considered the environmental effects of this action and, because it will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required for this notice. A copy of the environmental impact assessment is on file with the Hearing Clerk.

In accordance with Executive Order 12044, the economic effects of this action have been carefully analyzed, and it has been determined that this action does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) 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).

Dated: December 29, 1978.

TERENCE HARVEY,
*Acting Director, Bureau of Veterinary Medicine.*

[FR Doc. 79-410 Filed 1-2-79; 12:55 pm]

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[4110-84-M]

**Health Services Administration**

## MATERNAL AND CHILD HEALTH RESEARCH GRANTS REVIEW COMMITTEE

**Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1979:

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: February 7-9, 1979, 9 a.m.

Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open February 7, 9-10 a.m.; closed for remainder of meeting.

Purpose: The Committee is charged with the review of all research grant applications in the program areas of maternal and child health administered by the Bureau of Community Health Services.

Agenda: The Committee will be performing the review of grant applications for Federal assistance. This meeting will be open to the public from 9-10 a.m., February 7 for the Opening Remarks. The remainder of the meeting will be closed to the public for the review of grant applications, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Administrator, Health Services Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of the members, minutes of meetings, or other relevant information should contact Gontran Lamberty, Dr. P. H., Bureau of Community Health Services, Room 7-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2190.

Agenda items are subject to change as priorities dictate.

WILLIAM H. ASPDEN, Jr.,
*Associate Administrator for Management.*

[FR Doc. 79-472 Filed 1-4-79; 8:45 am]

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[4110-12-M]

**Office of Assistant Secretary for Health**

**PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS**

**Meeting**

The President's Council on Physical Fitness and Sports will hold its quarterly meeting on January 25, 1979. The meeting will be held from 10:00 a.m. to 4:00 p.m., Thursday, January 25, 1979, in the New Executive Office Building, 17th and Pennsylvania Aveune, N.W., Washington, D.C.

The purpose of the meeting is to discuss future directions of the PCPFS and to report on special projects.

A list of Council members and the Executive Order dated September 25, 1970, amended October 25, 1976, establishing their responsibilities, may be obtained from: C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, Washington, D.C. 20201, Telephone: 202/755-7947.

The meeting will be open to the public.

Dated: January 2, 1979.

V. L. NICHOLSON,
*Acting Executive Director, President's Council on Physical Fitness and Sports.*

[FR Doc. 79-498 Filed 1-4-79; 8:45 am]

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[4110-02-M]

**Office of Education**

**NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN**

**Meeting Change, Amendment**

Notice is hereby given pursuant to Pub. L. 92-463, that the meeting of the Editing Committee of the National Adivsory Council on the Education of Disadvantaged Children scheduled to be held on January 5, 1979 has been rescheduled to January 29 and 30, 1979. The meeting will be held both days from 9:30 a.m.—4:30 p.m., at 425-13th Street, N.W., Suite 1012, Washington, D.C.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

Signed at Washington, D.C. on January 3, 1979.

GLORIA B. STRICKLAND,
*Acting Executive Director.*

[FR Doc. 79-618 Filed 1-4-79; 8:45 am]

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[4110-02-M]

**NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION**

**Meeting**

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of the forthcoming meeting of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix I, Section 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Full Council Meeting: January 18, 1979, 9:00 a.m. to 5:00 p.m. and January 19, 1979, 9:00 a.m. to 5:00 p.m. and January 20, 1979, 9:00 a.m. to 12:00 p.m. Committee Meeting: To be announced.

ADDRESS: Suite 326, 425 13th Street, N.W., Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT:

Stuart A. Tonemah, Executive Director, National Advisory Council on Indian Education, Suite 326, 425 13th Street, N.W., Washington, D.C. 20004 (202) 376-8882.

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of P. L. 92-318, (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Comissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (P.L. 81-874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of P.L. 92-318 and amended by P.L. 93-380), and with respect to adequate funding thereof;

(3) review applications for assistance under Title III of the Act of September 30, 1950 (P.L. 81-874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of P.L. 92-318), and make recommendations to the Commissioner with respect to their approval;

(4) evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) assist the Commissioner of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (P.L. 81-874) as added by Title IV, Part A, of P.L. 92-318;

(7) submit to Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such program; and

(8) be consulted by the Commissioner of Education regarding the definition of the term "Indian," as follows:

Sec. 453 [Title IV, P.L. 92-318]. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) Is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian."

The meeting on January 18-20, 1979, will be open to the public. This meeting will be held at Suite 326, 425 13th Street, N.W., Washington, D.C.

The proposed agenda includes:

(1) Action on previous meeting minutes
(2) Executive Director's Report
(3) Update on pending legislation
(4) Committee discussions and reports
(5) Review of NACIE FY'79 Budget
(6) Plans for future NACIE activities
(7) Regular Council Business

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street, N.W., Suite 326, Washington, D.C. 20004.

For further information call Stuart A. Tonemah, Executive Director, National Advisory Council on Indian Education, (202) 376-8882.

Dated: December 14, 1978. Signed at Washington, D.C.

STUART A. TONEMAH,
*Executive Director, National Advisory Council on Indian Education.*

[FR Doc. 79-404 Filed 1-4-79; 8:45 am]

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[4110-12-M]

**Office of the Secretary**

**REDELEGATION OF AUTHORITY TO CERTIFY TRUE COPIES**

NOTE.—This document is republished with corrections, from the issue of Monday, December 18, 1978, page 58871.

Under the authority vested in me by the Secretary:

1. I hereby redelegate to the following the authority to certify true copies of any books, records, papers, or other documents on file within the Department, or extracts from such, to certify that true copies are true copies of the entire file of the Department, to certify the complete original record, or to certify the nonexistence of records on file within the Department, and to cause the Seal of the Department to be affixed to such certifications.

These same officials are authorized to cause the Seal to be Affixed to agreements, awards, citations, diplomas, and similar documents.

| *To whom delegated* | *Area of authority* |
|---|---|
| General Counsel | Department |
| Director, Office of Management Services, Office of the Secretary. | Office of the Secretary |
| Administrator, Health Care Financing Administration. | Health Care Financing Administration |
| Assistant Secretary for Education. | Education Division |
| Commissioner of Social Security. | Social Security Administration |
| Assistant Secretary for Human Development Services. | Office of Human Development Services |
| Assistant Secretary for Health. | Public Health Service |
| Director, Office of Child Support Enforcement. | Office of Child Support Enforcement |

This authority may be redelegated.

2. I also redelegate to the Civil Rights Hearing Clerk, Office of the Assistant Secretary or Personnel Administration, the authority as official custodian of the files in all matters pertaining to compliance proceedings under Title VI of the Civil Rights Act and as such custodian the authority to certify true copies of any books, records, papers, or other documents of the Department pertaining to such matters and to certify extracts from any such books, records, papers, or other documents on file within the Department as true extracts and to certify that true copies are true copies of the entire file of the Department in any such matters, and to cause the Seal of the Department to be affixed to such certifications. This authority may not be redelegated.

3. The above redelegations supersede the redelegations made under previous authority (34 FR 18049-50 dated 11/7/69 and 35 FR 16384, dated 10/20/70). Further redelegations made under the aforementioned redelegation of authority shall remain in effect until appropriate new redelegations are made.

Dated: December 9, 1978.

FREDERICK M. BOHEN,
*Assistant Secretary for Management and Budget.*

[FR Doc. 78-35077 Filed 12-15-78; 8:45 am]

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[4110-84-M]

**Public Health Service**

**HEALTH SERVICES ADMINISTRATION**

**Statement of Organization, Functions and Delegations of Authority**

Part H, Chapter HS, Health Services Administration, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 FR 10463, March 20, 1974, as amended in pertinent part, by 42 FR 14930, March 17, 1977) is amended to reflect the following changes within the Bureau of Community Health Services: (1) the abolishment of the Division of Clinical Services; and (2) the transfer of all the functions of the Division of Clinical Services to the Program Office for Maternal and Child Health.

Section HS-B, Organization and Functions, is amended as follows:

Under the heading entitled Bureau of Community Health Services (HSP) make the following changes:

(1) Delete the functional statements for the *Division of Clinical Services* (*HSPH*) in its entirety.

(2) Delete the title *Program Office for Maternal and Child Health* (*HSP15*) from the *Bureau of Community Health Services' Program Offices* (*HSP14-HSP19*) functional statement. The functional statement for the remaining Program Offices is unchanged.

(3) After the statement for the Program Offices' (HSP14-HSP19) add the following statement:

*Program Office for Maternal and Child Health* (*HSP15*). Under the direction of the Bureau Director: (1) carries out the Bureau of Community Health services (BCHS) nationwide role to improve the organization and delivery of health services for mothers and children; (2) plans, directs, administers and coordinates clinical services in support of all of the Bureau's programs and related professional health care activities at both the national and international levels; (3) provides leadership and direction for legislative activities in programs related to mothers and children, including both the development of proposals and plans and the interpretation of legislation and reports; (4) within broad Department of Health, Education, and Welfare and Public Health Service policies and guidelines, participates with the Division of Policy development in developing and establishing policies and long- and short-range goals and objectives for programs related to mothers and children; (5) administers programs for: (a) demonstration programs of regional and national significance, (b) applied research in maternal and child health and crippled children's services, (c) comprehensive multidisciplinary training programs through University Affiliated Center Programs and Pediatric Pulmonary Centers for special categories of training based on service programs for mentally retarded children and children with multiple handicaps and children with chronic pulmonary disease, and (d) areas of special concern such as mental retardation, hemophilia, genetic diseases, sudden infant death syndrome, metabolic disorders, habilitation of handicapped children, lead poisoning, etc.; (6) relative to maternal and child health activities, provides coordination with other programs providing health services, including voluntary, official, and other community agencies; establishes and provides liaison in program matters with other programs within BCHS and the Health Services Administration, within the Public Health Service, within the Department, and with other Federal agencies, consumer groups and national organizations concerned with health matters, and through the regional offices, with State and local governments; (7) plans, develops and implements assistance programs to: (a) improve the quality and effectiveness of patient care delivery systems, and (b) improve the quality of staffing, and knowledge of specific service delivery programs for maternal and child health; (8) administers programs to provide improved clinical health care services to mothers, children, adolescents and adults, including such disciplines as medicine, dentistry, nursing and other health-related specialties; (9) determines national goals, objectives and priorities for the maternal and child health program, selects conditions and services to be recommended for departmental emphasis and provides technical assistance in the development of specialized programs; (10) is accountable for the

administration of funds and other resources for grants, contracts, and technical assistance, utilizing the full resources of the Bureau in fulfilling the Maternal and Child Health programs' missions and responsibilities; and (11) tracks BCHS and regional office maternal and child health activities to ensure that delegated responsibilities are being carried out, including direct and indirect communications, regional office conferences and field visits as warranted.

Dated: December 22, 1978.

FREDERICK M. BOHEN,
*Assistant Secretary for Management and Budget.*

[FR Doc. 79-497 Filed 1-4-79; 8:45 am]

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[4310-84-M]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[NM 35631, 35632, 35633, 35641, 35642, 35644, 35645]

### NEW MEXICO

### Application

DECEMBER 29, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for seven 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDAN, NEW MEXICO

T. 32 N., R. 6 W.,
Sec. 21, SE¼SW¼.
T. 27 N., R. 7 W.,
Sec. 12, NE¼SE¼;
Sec. 13, lot 2.
T. 30 N., R. 10 W.,
Sec. 5, lots 7, 8 and 14.
T. 31 N., R. 10 W.,
Sec. 27, lots 11 and 14.
T. 31 N., R. 11 W.,
Sec. 25, NW¼SE¼.

These pipelines will convey natural gas across 0.809 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 79-476 Filed 1-4-79; 8:45 am]

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[4310-84-M]

[NM 35507, 35508, 35509, 35510, 35511, 35619, 35622]

### NEW MEXICO

### Applications

DECEMBER 27, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for seven 4½-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 5 W.,
Sec. 26, SW¼SE¼;
Sec. 35, W½NE¼.
T. 28 N., R. 6 W.,
Sec. 18, NW¼SE¼.
T. 28 N., R. 7 W.,
Sec. 14, NW¼SE¼.
T. 31 N., R. 10 W.,
Sec. 12, lots 12 and 13;
Sec. 13, lot 5;
Sec. 22, lot 11.

These pipelines will convey natural gas across 0.397 of a mile of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 79-477 Filed 1-4-79; 8:45 am]

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[4310-84-M]

[NM 35477]

### NEW MEXICO

### Application

DECEMBER 28, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Amoco Production Company has applied for a crude oil storage site right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 27 E.,
Sec. 3, SE¼NW¼.

The site will be used in connection with oil production operations and will occupy 0.923 of an acre of land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 79-480 Filed 1-4-79; 8:45 am]

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[4310-84-M]

## SALT LAKE DISTRICT GRAZING ADVISORY BOARD

### Meeting

Notice is hereby given in accordance with Public Law 92-463 that a Meeting of the Salt Lake District Grazing Advisory Board will be held on February 3, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land management, 2370 South 2300 West, Salt Lake City, Utah.

The agenda for the meeting will include:

I. Organization of the Board
A. Election
B. Board Organization
II. Introduce the Board to:
A. Salt Lake District
B. The Federal Advisory Committee Act
C. The Federal Land Management and Policy Act
D. The Taylor Grazing Act
E. The Range Lands Improvement Act
III. Present Range Programs
1. Range Program, Overall
2. Range Improvements (Range Betterment Funds)
3. District Maintenance Policy
4. Allotment Management Plans
5. Randolph Planning
6. Input into tooele Environmental Statement Pre-Planning Analysis
IV. Subcommittees
A. Subcommittees—General
B. Subcommittee—Tours—Agenda
V. Public Comments
VI. Next Meeting—August Agenda

The meeting is open to the public. Interested persons may make oral statement between 1:00 to 2:00 p.m. on February the 13th or file written statements for the board's consideration. Anyone wishing to make oral statements must notify the District Manager, 2370 South 2300 West, Salt Lake City, Utah 84119, by February 7, 1979. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager.

Summary minutes of the board will be maintained at the District Office and be available for public inspection and reproduction (during business hours) within 30 days following the meeting.

Dated: December 27, 1978.

DAVID S. WATSON,
*Acting District Manager.*

[FR Doc. 79-403 Filed 1-4-79; 8:45 am]

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[4310-84-M]

[UT-910]

**UTAH**

**Wilderness Inventory Program**

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Bureau of Land Management formally started on December 1, 1978 an expanded statewide wilderness inventory of roadless areas managed by the BLM in Utah.

The expanded wilderness inventory is being done under mandate of the Federal Land Policy and Management Act (FLPMA) of 1976, which directed BLM to conduct a wilderness review of those roadless areas of 5,000 acres or more and roadless islands of the public lands identified during the inventory that have wilderness characteristics described in the Wilderness Act of 1964.

The inventory will be accomplished in accordance with evaluation and review procedures published by the Bureau. These procedures are available to the public at any BLM office in Utah.

Date signed: December 28, 1978.

PAUL L. HOWARD,
*State Director.*

[FR Doc. 79-473 Filed 1-4-79; 8:45 am]

[4310-84-M]

**VALE DISTRICT GRAZING ADVISORY BOARD**

**Meeting**

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Vale District Grazing Advisory Board will be held on February 8, 1979.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management at 365 "A" Street West, Vale, Oregon 97918.

The agenda for the meeting will include: (1) A review of the new grazing regulations as related to allotment management plans and range improvements; (2) expenditure of range betterment and advisory board funds for range improvements; (3) A review of the following as they relate to Allotment Management Plans:

(a) Wilderness inventory progress
(b) Wild Horse Management Progess
(c) The findings of the 1978 Utilization Studies and Status of land use planning in preparation for the Ironside Environmental Statement.

The meeting is open to the public. Interested persons may make oral statements to the board after 3:00 p.m. on February 8, 1979, or may file written statements for the boards consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 365 "A" Street West, Vale, Oregon 97918, by February 6, 1979. Depending on the number of persons wishing to make oral statements a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available during regular business hours for public inspection and reproduction within 30 days following the meeting.

W. R. PAPWORTH,
*Acting District Manager.*

DECEMBER 22, 1978.

[FR Doc. 79-405 Filed 1-4-79; 8:45 am]

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[4310-09-M]

**Bureau of Reclamation**

**CONTRACT NEGOTIATIONS WITH FARWELL IRRIGATION DISTRICT, FARWELL UNIT, NEBRASKA, PICK-SLOAN MISSOURI BASIN PROGRAM**

**Intent To Negotiate a Contract for Repayment of Construction Costs for Additional Drainage Works and Public Meeting**

Although the Department of the Interior has not formally adopted procedures for public participation in contract negotiations, we believe that it is in the interests of the Department to advise the public that a contract is being considered.

The Department of the Interior, through the Bureau of Reclamation intends to negotiate a contract with the Farwell Irrigation District pursuant to the Reclamation Project Act of 1939 (53 Stat. 1187), the Flood Control Act of 1944 (58 Stat. 887), the Act of August 3, 1956 (70 Stat. 975), and the Act of August 10, 1972 (86 Stat. 525), for repayment of the cost of constructing certain drainage works within the district. Installation of drains in the Farwell Irrigation District is a continuing program; however, certain areas of the Farwell Irrigation District have serious groundwater problems which must be corrected immediately. The contract will provide for repayment of the $1 million needed to accomplish this construction program.

The public is invited to observe the negotiating sessions and to submit written comments on the form of proposed contract not later than 30 days after the completed contract draft is declared to be available to the public.

A meeting has been scheduled for January 9, 1979, at 2:00 p.m., in the conference room of the headquarters building of the Farwell Irrigation District in Farwell, Nebraska.

For further information on scheduled negotiations and copies of the proposed contract form, please contact Mr. Robert Kutz, Project Manager, Kansas River Projects, Bureau of Reclamation, McCook, Nebraska 69001.

Dated: January 2, 1979.

R. KEITH HIGGINSON,
*Commissioner.*

[FR Doc. 79-463 Filed 1-4-79; 8:45 am]

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[1505-01-M]

## DEPARTMENT OF LABOR

**Employment Standards Administration**

**MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION**

**General Wage Determination Decisions**

*Correction*

In FR Doc. 78-34648 appearing at page 58716 in the Issue for Friday, December 15, 1978, the first page of Modifications (appearing on the left side of page 58717) was not printed clearly. It should have appeared as follows:

[1505-01-C]

MODIFICATIONS P. 1

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION NO. CA78-5006 - Mod. #2 (43 FR 3859 - January 27, 1978) San Diego County, California | | | | | |
| Change: | | | | | |
| Brick, Block and Stonemasons' Tenders | $10.62 | .77 | 2.05 | | |
| Glaziers | 12.10 | .95 | 1.30 | | |
| Plumbers, Steamfitters | 13.12 | 10% | 16% | 13% | 2% |
| DECISION NO. CA78-5007 - Mod. #2 (43 FR 3863 - January 27, 1978) San Diego County, California | | | | | |
| Change: | | | | | |
| Brick, Block and Stonemasons' Tenders | $10.62 | .77 | 2.05 | | |
| Glaziers | 12.10 | .95 | 1.30 | | |
| Plumbers; Steamfitters | 13.12 | 10% | 16% | 13% | 2% |
| DECISION NO. CA78-5122 - Mod.#3 (43 FR 35835 - August 11, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California | | | | | |
| Change: | | | | | |
| Plumbers; Steamfitters: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties | $13.12 | 10% | 16% | 13% | 2% |
| DECISION NO. CA78-5123 - Mod. #3 (43 FR 36839 - August 18, 1978) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California | | | | | |
| Change: | | | | | |
| Plumbers; Steamfitters: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties | $13.12 | 10% | 16% | 13% | 2% |

[4510-29-M]
[4830-01-M]

## DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Application No. D-182]

### ARKANSAS, INC., PROFIT SHARING AND RETIREMENT PLANS

Proposed Exemption for Certain Transactions Involving Construction Machinery

AGENCIES: Department of Labor, Department of the Treasury/Internal Revenue Service.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor and the Internal Revenue Service (the Agencies) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a parcel of real property by the Construction Machinery of Arkansas, Inc. Profit Sharing Plan (the Profit Sharing Plan) and the Construction Machinery of Arkansas, Inc. Retirement Plan (the Retirement Plan) (collectively the Plans) to Construction Machinery of Arkansas, Inc. (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plans, the Employer, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 5, 1979.

ADDRESSES: Written comments and requests for a public hearing (at least six copies) should be addressed to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-182. The application for exemption and the comments received will be available for public inspection at the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216, and at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mary O. Lin of the Department of Labor, (202) 523-9141. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Agencies of an application for exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

#### Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Agencies for the complete representations of the applicant.

The Plans own a two acre parcel of unimproved real property located in the Otter Creek Industrial Park, Little Rock, Arkansas. The property was jointly purchased by the Plans on January 24, 1974 at a purchase price of $29,959.43. The Profit Sharing Plan acquired an undivided 40 percent interest in the property and the Retirement Plan acquired an undivided 60 percent interest. The property was purchased by the Plans with the intent of holding it for future appreciation.

The Employer seeks to purchase the property which is located directly adjacent to the principal offices of the Employer. The Employer proposes to purchase the parcel for $38,000.00 cash, with the Retirement Plan to receive $22,800.00 and the Profit Sharing Plan to receive $15,200.00. The Employer will pay the cost of any selling expenses. Two independent appraisers, Circle Realty Co. and Barnes, Quinn, Flake & Anderson, Inc., appraised the property and stated that in their opinion the fair market value was $19,000.00 per acre, or a total of $38,000.00 for the parcel.[1]

In May, 1977 the firm of Barnes, Quinn, Flake & Anderson, Inc., was instructed by The First National Bank in Little Rock (the trustee) to endeavor to solicit and locate an unrelated third party who would be interested in acquiring the property. Its efforts to obtain an unrelated third party to purchase the property were unsuccessful. Mr. Quinn of the firm states that most companies who are interested in the Otter Creek Industrial Park are interested in acquiring a tract of land substantially larger than the Plans' parcel and gave his opinion that the Employer is the only suitable purchaser for the property at the present time.

The applicant represents that the sale of the parcel to the Employer is in the interest of and protective of participants and beneficiaries of the Plans because it would allow the Plans to dispose of a non-income producing asset which represents a substantial portion of the Plans' assets. As of January 24, 1978, the Retirement Plan's interest in the parcel comprised approximately 30 percent of its assests and the Profit Sharing Plan's interest comprised approximately 98 percent of its assets. The payment of taxes and other carrying costs on the property have caused liquidity problems for the Plans, especially the Profit Sharing Plan. The sale of the parcel to the Employer therefore will provide the Plans with needed funds which will allow them to diversify their portfolios.

The trustee of the Plans was appointed by and may be removed by the Board of Directors of the Employer.

#### Notice to Interested Persons

Notice of the proposed exemption as published in the Federal Register will be mailed to each of the Plans' participants and any individual receiving benefits under the Plans within 10 days of the date the notice of the proposed exemption is published in the Federal Register.

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the

[1] The price of $38,000 is based upon the independent appraisals referred to above. However, in view of the length of time which has passed since that appraisal was made, the proposed exemption provides that the Employer must pay the greater of either $38,000 or the fair market value at the time of the sale.

plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Agencies must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

### WRITTEN COMMENTS AND HEARING REQUEST

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made part of the record. Comments and requests for a hearing should state the reason for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the addresses set forth above.

### PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Agencies are considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1 and Rev. Proc. 75-26. If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Profit Sharing Plan and the Retirement Plan to the Employer of the parcel of real property located in the Otter Creek Industrial Park, Little Rock, Arkansas, for the greater of $38,000.00 cash or the fair market value of the property at the time of the sale. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 26th day of December, 1978.

IAN D. LANOFF,
*Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.*

FRED J. OCHS,
*Director, Employee Plans Division, Internal Revenue Service.*

[FR Doc. 78-36465 Filed 12-28-78; 11:08 am]

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**[4510-29-M]**
**[4830-01-M]**

**Pension and Welfare Benefit Programs**

[Prohibited Transaction Exemption 78-20]

**BARRY, BARRY, ANGELIDES & HINDS, M.D.'s, P.A. EMPLOYEES PENSION TRUST**

**Grant of Individual Exemption**

AGENCIES: Department of the Treasury/Internal Revenue Service, Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the Barry, Barry, Angelides & Hinds, M.D.'s, P.A. Employees Pension Trust (the Trust) to sell certain trust assets to Barry, Barry, Angelides & Hinds, M.D.'s, P.A. (the Employer).

FOR FURTHER INFORMATION CONTACT:

Ivan Strasfeld of the Prohibited Transactions Staff of the Employee Plans Division, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224 (Attention E:EP:PT:2), 202-566-3045. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 7, 1978, notice was published in the FEDERAL REGISTER (43 FR 29391) of the pendency before the Internal Revenue Service and the Department of Labor (the Agencies) of an exemption from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code and from the provisions of sections 406(a) and 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act), for a transaction described in an application submitted by the Employer. The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Agencies, in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Internal Revenue Service (the Service). In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Service.

### TAX CONSEQUENCES OF TRANSACTION

The purchase of a plan asset by the employer for an amount in excess of its fair market value will constitute a contribution to the plan to the extent of such excess. The deductibility of such a contribution by the employer must be determined in accordance with generally applicable Federal income tax rules.

### GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code and Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with subsection (a)(1)(B) of section 404 of the Act, nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code and section 406(b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code and the Act, in-

cluding statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

EXEMPTION

In accordance with section 4975(c)(2) of the Code and section 408(a) of the Act and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Proc. 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Agencies make the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plan and of the participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of the plan.

Accordingly, the following exemption is hereby granted under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26 and ERISA Proc. 75-1.

The taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code and the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act shall not apply to a transaction involving the sale of two IBM mag card typewriters and console units by the Trust to the Employer for $14,196 cash, the original cost to the Trust of the equipment.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete and that the application accurately describes all material terms of the transaction consummated pursuant to the exemption.

Signed at Washington, D.C. this 26 day of December, 1978.

IAN D. LANOFF,
*Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.*

FRED J. OCHS,
*Director, Employee Plans Division, Internal Revenue Service.*

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[4510-29-M]
[4830-01-M]

## EMPLOYEE BENEFIT PLANS

### Amendment of Prohibited Transaction Exemption 77-9

AGENCIES: Department of the Treasury/ Internal Revenue Service, Department of Labor.

ACTION: Amendment of Prohibited Transaction Exemption 77-9.

SUMMARY: This document contains amendments by the Internal Revenue Service (Service) and the Department of Labor (Department) collectively referred to as the Agencies) to Prohibited Transaction Exemption 77-9, the class exemption relating to certain transactions commonly engaged in by employee benefit plans with insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters. The amendments will affect participants and beneficiaries of employee benefit plans, sponsors of such plans and persons engaging in the transactions to which the exemption applies.

FOR FURTHER INFORMATION CONTACT:

Bernard Colter, Room C4526, Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, 202-523-6958, Kathleen Bauer, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-6761. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: The Agencies are hereby amending Prohibited Transaction Exemption 77-9, a class exemption which permits certain transactions which might otherwise be prohibited by the Employee Retirement Income Security Act of 1974 (the Act) and be subject to excise taxes imposed by the Internal Revenue Code of 1954 (the Code) as amended by the Act. The exemption relates to various common transactions engaged in by insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters in connection with the sale to employee benefit plans of insurance and annuity contracts and securities issued by investment companies.

The exemption was granted by the Agencies on June 24, 1977 (42 FR 32395). On November 1, 1977, the Agencies postponed the effective date of certain conditions of the exemption until May 1, 1978 (42 FR 57184). Subsequently, on April 28, 1978, the Agencies further delayed the effective date until January 1, 1979 (43 FR 18359). Also, on April 28, 1978 (43 FR 18354) the Agencies proposed amendments to the exemption which would delete the "named fiduciary" exclusion and the "soley test" of section V(a), eliminate the acknowledgement requirements of section V(b) as they pertain to investment company principal underwriters, and modify the disclosure requirements as they pertain to insurance companies. On the same day that the exemption was originally granted, June 24, 1977, the Agencies proposed additional conditions to be added to the exemption (42 FR 32399). The proposed conditions would have limited the availability of the exemption to transactions entered into on behalf of employee benefit plans with less than 100 active participants, and would have required the disclosure of additional information with respect to transactions covered by the exemption.

Both the amendments and the additional conditions were proposed in accordance with the procedures set forth in ERISA procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722. Interested persons were inviterd to submit comments on the proposed additional conditions and on the amendments, and the Agencies held a public hearing on both matters on July 20, 1978.

The Agencies have considered the many written and oral comments received, and have determined to modify the exemption. In the interests of clarity, the Agencies have changed the format of the exemption somewhat and are, therefore, publishing the entire exemption, rather than just the modifications.

I. Additional Conditions. A. The Agencies proposed to limit the availability of the exemption to transactions engaged in with employee benefit plans covering less than 100 active participants. all comments received on this proposal were opposed to its adoption, although one comment suggested that this proposal be modified to preclude use of the exemption to sell individual insurance contracts to employee benefit plans with more than 50 participants. After reviewing the comments, the Agencies have been persuaded that the proposed limitation with respect to plans with 100 or more participants would be seriously disruptive of common current practices and may occasion substantial additional costs to such plans purchasing insurance in instances where the transactions may not be abusive. Additionally

the proposed limitation based upon numbers of participants would be very difficult to administer in light of normal fluctuations in such numbers. Consequently, the Agencies have decided not to adopt this proposal.

B. The Agencies proposed to require disclosure of any charges, fees, discounts, penalties or adjustments in connection with the purchase, holding, exchange, termination or sale of insurance contracts or investment company securities. The Agencies received very little comment on this proposal and have decided to adopt it as proposed. However, it should be noted that sales commissions or other amounts which are disclosed pursuant to other conditions in the exemption need not be disclosed again to comply with this condition.

C. The Agencies proposed two additional types of disclosure regarding the cost of and/or the rate or return on a recommended insurance or annuity contract. They received numerous comments regarding these proposals, virtually all of which were opposed to their adoption. The commentators urged that both proposals made by the Agencies would be misleading to plan fiduciaries in that they emphasize only the investment yield of an insurance contract while ignoring other aspects of insurance. Three commentators suggested alternative methods of disclosing the rate of return or cost of insurance contracts. After carefully considering all the comments and investigating the alternative disclosure methods suggested, the Agencies have concluded that at the present time no methodology suitable for inclusion in this exemption exists. Because there appears to be no method for such disclosure which is generally recognized as fair, complete and accurate for determining rates of return for insurance contracts, the Agencies have decided to withdraw their proposals to require disclosure regarding cost of or rate of return on an insurance contract at this time.[1] However at such time as a suitable methodology is developed, the Agencies will reconsider this issue and may propose such disclosure.

II. Amendments. A. The proposals which the Agencies made to delete the "solely test" and the "named fiduciary" exclusion from section V(a) of the exemption received no adverse comments, and the Agencies have decided to adopt those proposals. The Agencies' proposal to add to section V(a), as a category of persons excluded from using the exemption after December 31, 1978, the employer of employees covered by the plan generally received few adverse comments. However, most of the commentators pointed out that this exclusion would prevent insurance agents and brokers from selling insurance products to their own employee benefit plans and receiving commissions thereon, and urged that the Agencies not adopt this exclusion until they grant a class exemption covering the sale of insurance to such "in-house" plans. The Agencies note, however, that a notice of a proposal to grant an exemption for the sale of insurance contracts to "in-house" plans which would provide for retroactive application, is expected to be published in the FEDERAL REGISTER in the near future. Consequently, the Agencies believe that the proposal to preclude the availability of Exemption 77-9 to employers of employees covered by the plan should be adopted without any postponement in its proposed effective date.

Section V(a) also excludes from exemptive relief insurance agents or brokers, pension consultants, insurance companies, investment companies or principal underwriters if either they or their affiliates, as defined in section VI of the exemption, are fiduciaries expressly authorized in writing to manage, acquire or dispose of the assets of the plan in question on a discretionary basis. Several commentators requested amendment of the exemption to clarify that this exclusion applies only to the extent that the fiduciary has any authority, control or responsibility on behalf of the plan with respect to the assets involved in the transaction which is the subject of the exemption. The Agencies believe that such an amendment is not necessary, especially in view of their previous confirmation of this interpretation of the applicability of the exclusion.[2]

One comment requested the Agencies to modify the "authorized fiduciary" exclusion to permit the use of the exemption in a situation in which, for example, an officer of an insurance company is a member of the board of directors of an employer, which board has some express written authority regarding investments under the employer's benefit plan, if the officer abstains from any participation in transactions involving the insurance company. The Agencies have not made the suggested change because they believe that such a question generally should be resolved on a case by case basis, after considering all the relevant facts and circumstances.

Several commentators pointed out that the term "partner," as used in the definition of "affiliate" in section VI(c)(2) is ambiguous and requested clarification. The Agencies have amended section VI(c)(2) to make it clear that the term "affiliate" includes a person who is a partner in the person seeking to use the exemption but does not include a partner with such person. For example, Ms. X owns a 20 percent partnership interest in ABC Insurance Agency. Ms. X is an affiliate of ABC for purposes of this exemption. ABC Insurance Company is in partnership with D Bank in a business venture. D Bank is not an affiliate of its partner, ABC, for purposes of section VI(c)(2). However, if D controls, is controlled by, or is under common control with ABC, it would be an affiliate of ABC for purposes of this exemption under section VI(c)(1).

In order to clarify the applicability of section V(a) of the exemption and its interaction with the definition of "affiliate" contained in section VI, the Agencies offer again the following examples, which were originally set out in the preamble to the Notice of Proposed Amendment (43 FR 18354, April 28, 1978):

1. An insurance agent seeking to avail himself of the relief provided by the exemption has a sister who is the plan administrator. The exemption is not available to the agent because an affiliate of the agent, the sister (see section VI(c)(2)), is the plan administrator.

2. An insurance agency has an employee-insurance agent who is the plan administrator. The exemption is not available to the employee-agent because such agent is the plan administrator. Further, the exemption is not available to the insurance agency because one of its affiliates, the employee-agent (see section VI (c)(2)), is the plan administrator.

3. An insurance company seeking to avail itself of the relief provided by the exemption has on its board of directors a person who is also on the board of directors of the corporate employer sponsoring the plan. Under section VI(c), the director is an affiliate of the insurance company but the commonality of directors does not make the corporate employer an affiliate of the insurance company. Accordingly, the insurance company could engage in a transaction described in section III of the exemption if it satisfies all of the conditions of the exemption.

4. An insurance agent is an employee of an insurance company. The agent is also the president of the corporate employer maintaining the plan. Effective for transactions entered into after December 31, 1978, the agent could not avail himself of the relief provided by

[1] While the Agencies at this time are not imposing as a condition to the availability of this exemption the disclosure requirements discussed above, the Agencies recognize that a fiduciary responsible for making investment decisions for a plan must in discharging this duty, seek such information concerning specific potential plan investments, beyond that required in this exemption, as may be necessary to satisfy his duties to the plan.

[2] Letter dated October 31, 1977 from the Agencies to John Cardon, et al.

the exemption because an affiliate of the agent (see section VI(c)(3) of the exemption) is the employer of employees covered by the plan.

With respect to the availability of the exemption to the insurance company after December 31, 1978, the Agencies note the following. The agent, as an employee of the insurance company, is an affiliate of the insurance company by reason of section VI(c)(2), and, as noted above, the corporate employer is an affiliate of the agent by reason of section VI(c)(3). This relationship, however, of the corporate employer's officer to the insurance company does not make the employer an affiliate of the insurance company. Under section VI(b), the term "insurance company" includes the insurance company and its affiliates, i.e., the employee-agent, but does not include affiliates of such affiliates, i.e., the corporate employer. Accordingly, the insurance company could act through another agent to effect the sale of insurance to the plan if such other agent and the company otherwise satisfy all of the conditions of the exemption.

5. Assume the same facts as in example 4. With respect to section V(b) and (c) of the exemption requiring approval by a plan fiduciary of transactions described in section III(a) through (d) of the exemption, the agencies emphasize the following:

Section V(b) and (c) state that the approving fiduciary described therein may not be the insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter involved in the transaction for the sale of insurance or mutual fund products to the plan, or any affiliate of such agent, broker, consultant, insurance company, or underwriter. With respect to example 4, the president of the employer, as an employee of the insurance company, is an affiliate of such company (see section VI(c)(2)). Thus, the president of the employer would not be an appropriate approving fiduciary within the meaning of section V(b) and (c) to use his authority, control, or responsibility to cause the approval of a transaction for the sale of insurance to the plan by the insurance company of which the president was an employee even though some other employee of the company were to be the agent effecting the sale.

B. In response to the comments received, the Agencies have modified their proposal to delete the requirement that investment companies and their principal underwriters obtain from an independent fiduciary of the plans purchasing securities issued by the investment company written acknowledgement of receipt of the disclosures required under former section V(c), (d) and (e) of the exemption. Because of the method by which securities issued by investment companies may be purchased, such acknowledgement requirement would create extraordinary difficulties for investment companies and principal underwriters and might effectively make the exemption unavailable to such persons. Therefore, the Agencies have decided to delete such requirement for investment companies and their principal underwriters. In addition, the comments on this issue also requested either deletion or modification of the requirement in this exemption that the independent fiduciary approve the transaction on behalf of the plan after receipt of the disclosure information and prior to the execution of the transaction. The commentators pointed out that, since under the exemption principal underwriters would no longer have to secure an acknowledgement of the disclosure information, they would have no mechanism for insuring that the independent fiduciary has approved the proposed transaction, and they would, therefore, be unable to ascertain that they had satisfied all the conditions of the exemption. The Agencies believe that there is merit in this argument. Consequently, in order to avoid reimposing the hardship which the deletion of the acknowledgement requirement was designed to alleviate, the Agencies have modified the approval requirement so that investment companies and their principal underwriters may generally presume from the failure of the independent fiduciary to discontinue the purchase of the securities issued by the investment company, after the independent fiduciary has been furnished the disclosure information, that such fiduciary has approved the transaction on behalf of the plan.

One commentator requested that the exemption be further amended to provide that an investment company prospectus which meets the requirements of the federal securities laws and which is distributed by an investment company and/or its principal underwriter will automatically meet the requirement that the disclosures called for by this exemption be made in a manner calculated to be understood by a plan fiduciary with no special expertise in investment or insurance matters. The Agencies believe that if the prospectus is delivered when required under the exemption and it contains all the information required by section V(c) and the information is presented in terms understandable by a person with no special expertise and in a manner calculated to ensure that the information will come to the fiduciary's attention, such prospectus will satisfy the disclosure requirements of this exemption.

At the time that the deletion of the acknowledgement requirement as it pertains to investment companies and investment company principal underwriters was proposed, the Agencies invited comments as to whether similar relief should be extended to insurance agents and brokers, pension consultants and insurance companies (43 FR 18357, April 28, 1978). Only one commentator requested such relief. Since the comment contained insufficient information to support the extension of such relief, the Agencies are not modifying the acknowledgement requirement in the exemption applicable to the sale of insurance or annuity contracts.

C. The Agencies received no adverse comment regarding their proposal to delete the requirement that an insurance company engaging in a transaction described in section III(d) of the exemption make the disclosure described in former section V(c), (d) or (e) of the exemption, and are adopting this proposal. Since insurance companies will not be required to make these disclosures in the case of transactions covered by section III(d) of the exemption, the Agencies have also deleted former section V(g) which required insured insurance companies to maintain records regarding disclosure information for a period of six years from the date of the transaction. The Agencies also wish to correct a statement made in the preamble to the notice of proposal of amendments to the exemption (43 FR 18357, April 28, 1978) to the effect that insurance companies, among others, would still be required to obtain from the independent fiduciary an acknowledgement of receipt of the disclosure information. Since insurance companies will not be required to make disclosure, they will not be subject to the acknowledgement requirement.

However, the Agencies emphasize again that all insurance agents and brokers and pension consultants, including those employed by an insurance company, seeking to avail themselves of the relief provided by the exemption to engage in transactions described in section III(a) or (c) are required to make the appropriate disclosures. In addition, an insurance company is not prevented from making disclosure or developing or distributing disclosure documents on behalf of its agents, nor from maintaining the appropriate records relating to such disclosure on behalf of its agents.

D. Several comments requested various modifications of section III(f) of the exemption. Three commentators requested that section III(f) be amended to permit the purchase of securities issued by an investment company with plan assets from, or the sale of such securities to, an investment company

or its principal underwriter when such investment company, principal underwriter or the investment company's investment adviser is a fiduciary or service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan. The commentators represent that an investment company is usually managed by its investment adviser which performs many of the administrative functions of the investment company, and that it is becoming a common practice in many mutual fund complexes for the investment adviser, rather than the investment company itself or its principal underwriter to sponsor a master or prototype plan. They also point out that investment advisers are regulated by the Securities and Exchange Commission under the Investment Advisers Act of 1940. They urge that there is no public policy reason for limiting the availability of the exemption to situations in which the master or prototype plan in question is sponsored by the investment company or its principal underwriter. The Agencies believe that there is merit in this contention and consequently have amended section III(f) to cover transactions described therein when the investment company's investment adviser is a fiduciary or service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan.

Section III(F) permits the purchase of securities from or the sale to an investment company or its principal underwriter only when the relationship of the investment company or principal underwriter to the plan arises solely from the sponsorship of a master or prototype plan by that investment company, its principal underwriter or now, its investment adviser. Commentators requested that the Agencies amend section III(F) to permit an investment company, its principal underwriter or its investment adviser also to provide non-discretionary trust or custodial services to plans which adopt its master or prototype plan, without violating the "solely test" of that section. The commentators represent that it is becoming a common practice for an investment company complex to offer internal non-bank trust or custodial services to its customers in order to provide a higher degree of administrative capability and to reduce overhead expenses. They also point out that in most instances the entity within the investment company complex which would provide such services would be the investment company's transfer agent and that such non-bank transfer agents are subject to registration with and regulation by the Securities and Exchange commission pursuant to the Securities Acts Amendments of 1975.

The Agencies have determined to modify the exemption to permit transactions to come within the purview of section III(f) if an entity affiliated with an investment company provides non-discretionary trust or custodial services to plans which adopt a master or prototype plan sponsored by the investment company, its principal underwriter or its investment adviser. The Agencies are taking this action because they believe that the provision of such services by an entity whose only other relationship to an employee benefit plan arises out of its affiliation with the sponsor of a master or prototype plan which the employee benefit plan has adopted contains minimal potential for abuse of the plan.

Another commentator requested that the Agencies amend section V(a) to permit a trustee not having any discretionary authority over the acquisition or disposition of plan assets to avail itself of the relief offered by the exemption. The Agencies believe that such a substantive modification of section V(a), which has much broader application than does section III(f), should be based on a showing, at least, that the present conditions of section V(a) place an undue burden upon common and customary business practices and that, if section V(a) were amended as requested, sufficient safeguards would still be present in the exemption to protect the interests of plan participants and beneficiaries. Since the Agencies do not believe that such a showing has been made, they have determined not to make the requested modification of section V(a).

### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary of a plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties with respect to the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The exemption set forth herein is supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemtion is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(4) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notices of June 24, 1977 and April 28, 1978, and the hearing held on July 20, 1978, the Agencies make the following determinations:

(i) The class exemption set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of the plans.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the Federal Register for Wednesday, May 24, 1978 (43 FR 22319).

### Exemption

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) and section 4975(c)(2) of the Internal Revenue Code of 1954 (the Code), and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

*Section I—Retroactive Application.* The restrictions of section 406(a)(1)(A) through (D) and 406(b) of the Act and the taxes imposed by section 4975 of the Code do not apply to any of the transactions described in section III of this exemption in connection with purchases made before November 1, 1977, if the conditions set forth in section IV are met.

*Section II—Prospective Application.* The restrictions of section 406(a)(1)(A) through (D) and 406(b) of the Act and the taxes imposed by section 4975 of the Code do not apply to any of the transactions described in section III of this exemption in connection with purchases made after October 31, 1977, if the conditions set forth in section IV and V are met.

*Section III—Transactions.* (a) The receipt, directly or indirectly, by an insurance agent or broker or a pension consultant of a sales commission from an insurance company in connection with the purchase, with plan assets, of an insurance or annuity contract.

(b) The receipt of a sales commission by a principal underwriter for an in-

vestment company registered under the Investment Company Act of 1940 (hereinafter referred to as an investment company) in connection with the purchase, with plan assets, of securities issued by an investment company.

(c) The effecting by an insurance agent or broker, pension consultant or investment company principal underwriter of a transaction for the purchase, with plan assets, of an insurance or annuity contract or securities issued by an investment company.

(d) The purchase, with plan assets, of an insurance or annuity contract from an insurance company.

(e) The purchase, with plan assets, of an insurance or annuity contract from an insurance company which is a fiduciary or a service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan.

(f) The purchase, with plan assets, of securities issued by an investment company from, or the sale of such securities to, an investment company or an investment company principal underwriter, when such investment company, principal underwriter, or the investment company investment adviser is a fiduciary or a service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan including the provision in connection therewith of non-discretionary trust or custodial services, if any, with respect to the plan.

*Section IV—Conditions with Respect to Transactions Described in Section III.* (a) The transaction is effected by the insurance agent or broker, pension consultant, insurance company or investment company principal underwriter in the ordinary course of its business as such a person.

(b) The transaction is on terms at least as favorable to the plan as an arm's-length transaction with an unrelated party would be.

(c) The combined total of all fees, commissions and other consideration received by the insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter:

(1) For the provision of services to the plan; and

(2) In connection with the purchase of insurance or annuity contracts or securities issued by an investment company

is not in excess of "reasonable compensation" within the contemplation of section 408(b)(2) and 408(c)(2) of the Act and sections 4975(d)(2) and 4975(d)(10) of the Code. If such total is in excess of "reasonable compensation," the "amount involved" for purposes of the civil penalties of section 502(i) of the Act and the excise taxes imposed by section 4975 (a) and (b) of the Code is the amount of compensation in excess of "reasonable compensation."

*Section V—Conditions for Transactions Described in Section III(a) through (d).* The following conditions apply solely to a transaction described in paragraphs (a), (b), (c) or (d) of section III:

(a) The insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter is not (1) a trustee of the plan, (2) a plan administrator (within the meaning of section 3(16)(A) of the Act and section 414(g) of the Code), (3) a fiduciary who is expressly authorized in writing to manage, acquire or dispose of the assets of the plan on a discretionary basis, or (4) for transactions described in section III (a) through (d) entered into after December 31, 1978, an employer any of whose employees are covered by the plan.

(b) (1) With respect to a transaction involving the purchase with plan assets of an insurance or annuity contract or the receipt of a sales commission thereon, the insurance agent or broker or pension consultant provides to an independent fiduciary with respect to the plan prior to the execution of the transaction the following information in writing and in a form calculated to be understood by a plan fiduciary who has no special expertise in insurance or investment matters:

(A) If the agent, broker, or consultant is an affiliate of the insurance company whose contract is being recommended, or if the ability of such agent, broker or consultant to recommend insurance or annuity contracts is limited by any agreement with such insurance company, the nature of such affiliation, limitation, or relationship;

(B) The sales commission, expressed as a percentage of gross annual premium payments for the first year and for each of the succeeding renewal years, that will be paid by the insurance company to the agent, broker or consultant in connection with the purchase of the recommended contract; and

(C) For purchases made after December 31, 1978, a description of any charges, fees, discounts, penalties or adjustments which may be imposed under the recommended contract in connection with the purchase, holding, exchange, termination or sale of such contract.

(2) Following the receipt of the information required to be disclosed in paragraph (b)(1), and prior to the execution of the transaction, the independent fiduciary acknowledges in writing receipt of such information and approves the transaction on behalf of the plan. Such fiduciary may be an employer of employees covered by the plan, but may not be an insurance agent or broker, pension consultant or insurance company involved in the transaction. Such fiduciary may not receive, directly or indirectly (e.g. through an affiliate), any compensation or other consideration for his or her own personal account from any party dealing with the plan in connection with the transaction.

(c) (1) With respect to a transaction involving the purchase with plan assets of securities issued by an investment company or the receipt of a sales commission thereon by an investment company principal underwriter, the investment company principal underwriter provides to an independent fiduciary with respect to the plan, prior to the execution of the transaction, the following information in writing and in a form calculated to be understood by a plan fiduciary who has no special expertise in insurance or investment matters:

(A) If the person recommending securities issued by an investment company is the principal underwriter of the investment company whose securities are being recommended, the nature of such relationship and of any limitation it places upon the principal underwriter's ability to recommend investment company securities;

(B) The sales commission, expressed as a percentage of the dollar amount of the plan's gross payment and of the amount actually invested, that will be received by the principal underwriter in connection with the purchase of the recommended securities issued by the investment company; and

(C) For purchases made after December 31, 1978, a description of any charges, fees, discounts, penalties, or adjustments which may be imposed under the recommended securities in connection with the purchase, holding, exchange, termination or sale of such securities.

(2) Following the receipt of the information required to be disclosed in paragraph (c)(1), and prior to the execution of the transaction, the independent fiduciary approves the transaction on behalf of the plan. Unless facts or circumstances would indicate the contrary, such approval may be presumed if the fiduciary permits the transaction to proceed after receipt of the written disclosure. Such fiduciary may be an employer of employees covered by the plan, but may not be a principal underwriter involved in the transaction. Such fiduciary may not receive, directly or indirectly (e.g. through an affiliate), any compensation or other consideration for his or her own personal account from any party dealing with the plan in connection with the transaction.

(d) With respect to additional purchases of insurance or annuity contracts or securities issued by an investment company, the written disclosure required under paragraphs (b) and (c) of this section V need not be repeated, unless—

(1) More than three years have passed since such disclosure was made with respect to the same kind of contract or security, or

(2) The contract or security being recommended for purchase or the commission with respect thereto is materially different

from that for which the approval described in paragraphs (b) and (c) of this section was obtained.

(e) (1) In the case of any transaction described in paragraphs (a), (b), or (c) of section III, the insurance agent or broker (or the insurance company whose contract is being described if designated by the agent or broker), pension consultant or investment company principal underwriter shall retain or cause to be retained for a period of six years from the date of such transaction, the following:

(A) The information disclosed pursuant to paragraphs (b), (c), and (d) of this section V;

(B) Any additional information or documents provided to the fiduciary described in paragraphs (b) and (c) of this section V with respect to such transaction; and

(c) The written acknowledgement described in paragraph (b) of this section.

(2) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the insurance agent or broker, pension consultant, or principal underwriter, such records are lost or destroyed prior to the end of such six-year period.

(3) Notwithstanding anything to the contrary in sections 504(a)(2) and (b) of the Act, such records are unconditionally available for examination during normal business hours by duly authorized employees or representatives of the Department of Labor, the Internal Revenue Service, plan participants and beneficiaries, any employer of plan participants and beneficiaries, and any employee organization any of whose members are covered by the plan.

*Section VI—Definitions.* For purposes of this exemption:

(a) The term "principal underwriter" is defined in the same manner as that term is defined in section 2(a)(29) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(29)).

(b) The terms "insurance agent or broker," "pension consultant," "insurance company," "investment company," and "principal underwriter" mean such persons and any affiliates thereof.

(c) The term "affiliate" of a person means:

(1) Any person directly or indirectly controlling, controlled by, or under common control with such person;

(2) Any officer, director, employee (including, in the case of a principal underwriter, any registered representative thereof, whether or not such person is a common law employee of such principal underwriter), or relative of any such person, or any partner in such person; or

(3) Any corporation or partnership of which such person is an officer, director, or employee, or in which such person is a partner.

(d) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(f) The term "master or prototype plan" means a plan which is approved by the Service under Rev. Proc. 72-7, 1972-1 C.B. 715, or Rev. Proc. 72-8, 1972-1 C.B. 716, or their successors.

Signed at Washington, D.C., this 28th day of December, 1978.

TED R. KERN,
*Deputy Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service.*

IAN D. LANOFF,
*Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor.*

[FR Doc. 78-36475 Filed 12-29-78; 8:45 am]

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[4510-28-M]

## DEPARTMENT OF LABOR

### Office of the Secretary

[TA-W-3813]

### AIRCO, INC., AIRCO ALLOYS AND CARBIDE DIVISION, CALVERT CITY, KY.

### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3813: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 7, 1978 in response to a worker petition received on June 2, 1978 which was filed by the United Automobile, Aerospace, and Agricultural Implement Workers of America on behalf of workers and former workers producing chrome, silicon, ferrosilicon and manganese at the Calvert City, Kentucky plant of Airco Alloys and Carbide, a division of Airco, Inc. Investigation revealed that the plant produced primarily ferrosilicon, silicomanganese, and medium carbon ferromanganese.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26499). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Airco, Inc., its customers, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers producing ferrosilicon, it is concluded that all of the requirements have been met.

Imports of ferrosilicon increased from 98,775 short tons in 1976 to 114,788 short tons in 1977. Imports increased from 50,630 short tons in the first six months of 1977 to 62,552 short tons in the same period of 1978.

Some customers of Airco, Inc. were surveyed by the Department. Customers of ferrosilicon who indicated that they had decreased purchases from Airco increased purchases of imported ferrosilicon in 1977 and in the first six months of 1978.

With respect to workers producing silicomanganese and ferromanganese, without regard to whether any of the other criteria have been met, the following criteria has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production at the Calvert City plant is based upon orders received. Production of each product, silicomanganese and ferromanganese, increased in the fourth quarter of 1977 and in the first two quarters of 1978 compared with the same quarter of the previous year. Production of each product increased in the first six months of 1978 compared with the same period of 1977.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ferrosilicon produced at the Calvert City, Kentucky plant of Airco Alloys and Carbide Division, Airco, Inc, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of ferrosilicon of the Calvert City, Kentucky plant of Airco Alloys and Carbide Division, Airco, Inc. who become totally or partially separated from employment on or after May 31, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers at the Calvert City, Kentucky plant of Airco Alloys and Carbide Division,

Airco, Inc. engaged in employment related to the production of silicomanganese and ferromanganese are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December, 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 79-500 Filed 1-4-79; 8:45 am]

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[4510-28-M]

## ALLIED CHEMICAL CORP., SPECIALTY CHEMICAL DIV., ET AL.

### Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 19, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the Address shown below, not later than January 19, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 28th day of December, 1978.

MARVIN M. FOOKS,
*Director, Office of Trade Adjustment Assistance.*

APPENDIX

| Petitioner (Union/workers or former workers of:) | Location | Date Received | Date of Petition | Petition Number | Articles Produced |
|---|---|---|---|---|---|
| Allied Chemical Corporation, Specialty Chemical Division (USWA). | South Point, Ohio | 12/22/78 | 12/20/78 | TA-W-4,553 | chemical ammonia, urea, formaldehyde & urea formaldehyde concentrate |
| Apex Handbags (ILGP&NWU) | Weehawken, New Jersey | 12/26/78 | 12/18/78 | TA-W-4,554 | ladies' handbags |
| Duchess Footwear Corporation (workers). | Salem, Mass | 12/26/78 | 12/13/78 | TA-W-4,555 | stitching of shoe uppers for women's shoes |
| E.I. DuPont De Nemours & Company. | Old Hickory, Tenn | 12/20/78 | 12/14/78 | TA-W-4,556 | polyester & dacron yarn & staple |
| Gaylor Manufacturing Company (company). | Ashland, Virginia | 12/26/78 | 12/21/78 | TA-W-4,557 | men's & women's shirts |
| Gibson, Incorporated (USWA) | Kalamazoo, Michigan | 12/22/78 | 12/20/78 | TA-W-4,558 | acoustical & electric guitars, mandolins & banjos |
| International Shoe Company (workers). | West Plains, Missouri | 12/26/78 | 12/21/78 | TA-W-4,559 | men's dress & casual shoes |
| Roth LeCover (ILGWU) | Los Angeles, California | 12/26/78 | 12/20/78 | TA-W-4,560 | suits & dresses for women |
| Mister Herbert of California, Inc. (ILGWU). | Los Angeles, California | 12/20/78 | 12/18/78 | TA-W-4,561 | women's coats |
| Parisi Sportswear Co., Inc. (company). | Newark, New Jersey | 12/26/78 | 12/14/78 | TA-W-4,562 | contractor of men's tennis shorts |
| F/V Sailor's Choice (workers) | Gloucester, Mass | 12/22/78 | 12/9/78 | TA-W-4,563 | catching & selling of fish |

[FR Doc. 79-524 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-4437]

## ALUMINUM CO. OF AMERICA, ROCKDALE, TEX.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4437: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1978 in response to a worker petition received on November 20, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing primary aluminum in the form of ingots, aluminum powder and redraw rods at the Rockdale, Texas facility of the Aluminum Company of America.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Aluminum Company of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

The Department's investigation revealed that production of primary aluminum at the Rockdale, Texas facility of the Aluminum Company of America

increased in quantity from 1976 to 1977 and in the first ten months of 1978 compared to the same period in 1977. Production has increased in the last seven quarters when compared to the same quarters of the previous year. Virtually all aluminum produced at the plant when finished is transported elsewhere in the Alcoa system so that sales approximates production.

CONCLUSION

After careful review, I determine that all workers of the Rockdale, Texas facility of the Aluminum Company of America are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-501 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-4275]

**BETHLEHEM STEEL CORP., CORPORATE SERVICES, BETHLEHEM, PA., AND NEW YORK, N.Y.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4275: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 20, 1978 in response to a worker petition received on October 13, 1978 which was filed on behalf of workers and former workers providing air condition and heat unit service, janitor service and escort service for the Bethlehem Steel Corporation, Bethlehem, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on October 31, 1978 (43 FR 50758-9). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Bethlehem Steel Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Corporate Services Division of Bethlehem Steel Corporation provides a variety of support services integral to the production of all steel products manufactured by Bethlehem Steel. These services include the following areas:

custodial
horticultural (ground maintenance, greenhouse)
craft maintenance (carpenters, plumbers, etc.)
escort services
office services (clerical, etc.)
restaurant
stationary engineering (power plant, boiler rooms)

Workers in Corporate Services are employed at Bethlehem Steel's Corporate Headquarters, Martin Towers, Bethlehem, Pennsylvania; Research Department and General Sales Offices, Bethlehem, Pennsylvania; and New York General Offices, 1 State Street Plaza, New York, New York.

The Department has previously certified workers who became totally or partially separated from employment at eight Bethlehem Steel facilities (see TA-W- 1234, 1498, 1500, 1534, 2236, 2308, 2316, 2556, 2726, 924, 3729, 3730 and 3731). The certified products produced at these plants collectively represent a significant proportion of the company's total sales in 1976. The impact dates for these certifications vary from May 15, 1975 to April 12, 1977. Expiration dates for these certifications vary between February 13, 1979 and October 16, 1980 depending upon the date of issuance for individual certifications.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with various steel products produced at Bethlehem Steel Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Corporate Service Division of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Corporate Services Division of Bethlehem Steel Corporation, Bethlehem, Pennsylvania and New York, New York who became totally or partially separated from employment on or after October 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of December, 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 79-502 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4317]

**CENTER GARMENT CO., INC., FALL RIVER, MASS.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4317: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 31, 1978 in response to a worker petition received on October 30, 1978 which was filed on behalf of workers and former workers producing ladies' better dresses at Center Garment Company, Incorporated in Fall River, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Center Garment Company, Incorporated, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibiltiy to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with article produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey conducted with the sole manufactureer that contracted work with Center Garment Company revealed that the manufacturer did not employ any foreign contractors nor did the manufacturer import any dresses during the period of 1976 through September 1978.

CONCLUSION

After careful review, I determine that all workers of Center Garment Company, Incorporated in Fall River, Massachussetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of December, 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 79-503 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-4229]

**CENTRAL FURNACES, UNITED STATES STEEL CORP., CLEVELAND, OHIO**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4229: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 29, 1978 in response to a worker petition received on September 28, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing pig iron at the Cleveland, Ohio Central Furnaces of the U.S. Steel Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on October 17, 1978 (43 FR 44795-6). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the U.S. Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of merchant pig iron decreased slightly from 415 thousand tons in 1976 to 373 thousand tons in 1977. In the first three quarters of 1978, however, imports increased to 492 thousand tons compared to 218 thousand tons for the same period in 1977. The ratio of imports to domestic shipments decreased from 41.5 percent in 1976 to 38.8 percent in 1977 and increased to 80.8 percent in the first three quarters of 1978 compared to 29.8 percent fer the same 1977 period.

The Department conducted a survey of some of the customers purchasing pig iron from the Central Furnaces of U.S. Steel Corporation in Cleveland, Ohio. The survey revealed that several of the customers reduced purchases from U.S Steel and increased purchases from foreign sources from 1976 to 1977 and in the first ten months of 1978 compared to the same 1977 period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitives with pig iron produced at the Cleveland, Ohio Central Furnaces of the U.S. Steel Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Cleveland, Ohio Central Furnaces of the U.S. Steel Corporation who became totally or partially separated from employment on or after September 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-504 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-4127]

**DYNACO, INC., BLACKWOOD, N.J.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4127: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 31, 1978 in response to a worker petition received on August 29, 1978 which was filed on behalf of workers and former workers producing tuners, preamplifiers, power amplifiers, integrated amplifiers, and loudspeakers. The investigation revealed that equalizers and energy storage units were also produced at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 40576). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Dynaco, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of amplifiers and tuners have increased both absolutely and relative to domestic production from 1976 to 1977 and in the first six months of 1978 compared to the same period of 1977.

U.S. imports of loudspeakers have increased relative to domestic production from 1976 to 1977 and in the first six months of 1978 compared to the same period of 1977.

Several of Dynaco's customers who were surveyed indicated that their total purchasers from Dynaco decreased while their purchased from foreign sources increased. Several customers stated that the vast majority of tuners and amplifiers they purchased were manufactured overseas.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tuners, preamplifiers, power amplifiers, integrated amplifiers, equalizers, and energy storage units produced at Dynaco, Incorporated, Blackwood, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Dynaco, Incorporated, Blackwood, New Jersey who became totally or partially separated from employment on or after August 11, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-505 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-3960]

**ELLEN KATE CLOTHING CO., NEWBURGH, N.Y.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3960: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 11, 1978 in response to a worker petition received on July 5, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing rainwear at the Ellen Kate Clothing

Company, Newburgh, New York. The investigation revealed that the plant produces ladies' raincoats, all-weather coats and car coats.

The Notice of Investigation was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32199). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Ellen Kate Clothing Company, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The average number of workers increased from 1976 to 1977. Employment declined in the first quarter of 1978 when layoffs typical to the industry occurred. Employment declines in the first half of 1978 compared to the same period of 1977 were insignificant.

CONCLUSION

After careful review, I determine that all workers of Ellen Kate Clothing Company, Newburgh, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-506 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-4406]

**FAMOUS MAID BRASSIERE CO., NEW YORK, N.Y.**

**Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4406: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 21, 1978 in response to a worker petition received on November 13, 1978 which was filed by the International Ladies Garment Workers' Union on behalf of workers and former workers producing brassieres at the Famous Maid Brassiere Company, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56951-52). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Famous Maid Brassiere Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Famous Maid markets brassieres produced in its New York, New York plant, imported brassieres and girdles purchased from apparel jobbers. Evidence developed during the course of the investigation indicated that Famous Maid's total sales and production of brassieres and girdles and Famous Maid's production and sales of brassieres produced at the company's New York, New York plant increased in the first eleven months of 1978 compared to the first eleven months of 1977. Declines in sales, production and employment in 1977 compared to 1976 were covered under an earlier certification of workers producing brassieres at Famous Maid in TA-W-1146 (the certification expired on December 13, 1978).

CONCLUSION

After careful review, I determine that all workers of the Famous Maid Brassiere Company, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-507 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4293]

**FREELAND MANUFACTURING CO., FREELAND, PA.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4293: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 25, 1978 in response to a worker petition received on October 24, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing down jackets and jeans for men, women, and children at the Freeland Manufacturing Company, Freeland, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Freeland Manufacturing Company, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' non-tailored outer jackets and women's, misses', and children's coats and jackets increased in 1977 compared to 1976.

At the end of 1977, Freeland's customer for down jackets and vests stopped purchases from Freeland Manufacturing and started to purchase imports.

Imports of men's and boys' work trousers and women's, misses', and children's slacks and shorts increased in 1977 compared to 1976 and in January-September 1978 compared to the same period of 1977.

A customer of Freeland for jeans increased purchases from foreign sources and decreased purchases from Freeland Manufacturing.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's, and children's jeans and down jackets and vests produced at

Freeland Manufacturing Company, Freeland, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Freeland Manufacturing Company, Freeland, Pennsylvania, who became totally or partially separated from employment on or after October 23, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 or the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of December 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-508 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-3829]

**G. R. LARSON CONSTRUCTION CO., SAFFORD, ARIZ.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3829: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 12, 1978 in response to a worker petition received on June 7, 1978 which was filed on behalf of workers and former workers of G. R. Larson Construction Company who operated a copper leach extraction facility at the Safford, Arizona mine site of Kennecott Copper Corporation. The Department's investigation revealed that the "workers' firm" is Kennecott Copper Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of G. R. Larson Construction Company, Kennecott Copper Corporation, *American Metal Market*, the American Bureau of Metal Statistics, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

Evidence developed during the Department's investigation revealed that the leach extraction facility operated by G. R. Larson Construction Company was an experimental project directed by Ledgemont Laboratory, a Kennecott Copper Corporation division which specializes in research and development. The small amount of copper produced was not refined and was never intended to be marketed. This research and development function is separate from the integrated copper production process engaged in by Kennecott, whose final product is refined copper.

Since the function provided by G. R. Larson is not integrated into Kennecott's production of refined copper, it has been determined that G. R. Larson is not an "appropriate subdivision" of Kennecott Copper Corporation within the meaning of Section 222 of the Trade Act of 1974. Furthermore, the research and development activities performed by G. R. Larson were directed at developing a more efficient production process and are not considered the production of "articles" and the Department of Labor has previously determined that the performance of services is not included within the term "articles" as used in Section 222(3) of the Act.

CONCLUSION

After careful review, I determine that G. R. Larson Construction Company, Safford, Arizona, is not an "appropriate subdivision" of Kennecott Copper Corporation within the meaning of Section 222 of the Trade Act of 1974. Moreover, the activities performed by the workers of G. R. Larson are not "articles" within the meaning of Section 222(3) of the Trade Act.

Signed at Washington, D.C. this 28th day of December, 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 79-509 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-3305]

**GENERAL MOTORS CORP., DELCO-REMY DIVISION, MUNCIE, IND.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3305: investigation regarding certification of eligiblity to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 7, 1977 in response to a worker petition received on February 27, 1978 which was filed on behalf of workers and former workers producing automobile storage batteries at the Muncie, Indiana plant of the Delco-Remy Divsion of General Motors Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11277). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of General Motors Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of storage batteries have been negligible—less than two percent of domestic production—in recent years. Furthermore, most of the storage battery imports consist of motorcyle batteries. The Muncie plant produces only automobiles storage batteries. General Motors Corporation, the major user of batteries produced by the Muncie plant, does not purchase imported storage batteries for use in its domestically produced automobiles.

Recent technological innovations including the development of a maintenance free, lifetime use battery have became paramount in the storage battery industry. These innovations have drastically altered consumer demand and manufacturers' production patterns, especially for the battery replacement market.

CONCLUSION

After careful review, I determine that all workers of the Muncie, Indiana plant of the Delco-Remy Division of General Motors Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-510 Filed 1-4-79; 8:45 am]

[4510-28-M]

[TA-W-4423]

**GERALYN BLOUSE CO., INC., NEW YORK, N.Y.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4423: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 27, 1978 in response to a worker petition received on November 16, 1978 which was filed by the International Ladies Garment Workers Union, Locals 23-25 on behalf of workers and former workers producing women's and children's knit pullovers, blouses, and shirts at Geralyn Blouse Company, Incorporated, New York, New York. The investigation revealed that the plant produces women's and misses' blouses and shirts but does not produce such articles for children.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Geralyn Blouse Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligiblity to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' and children's blouses and shirts increased from 26,113 thousand dozen in 1975 to 30,273 thousand dozen in 1976, and to 30,849 thousand dozen in 1977. U.S. imports increased from 24,036 thousand dozen in the first three quarters of 1977 to 28,505 thousand dozen during the same period in 1978.

In the course of a prior investigation, the U.S. Department of Commerce contacted Geralyn Blouse Company's leading customer concerning its purchases from domestic and foreign sources. This customer, which represented a substantial proportion of Geralyn's total sales in FY 1976 * and FY 1977, indicated that it had reduced its contract work with the subject firm in FY 1977 compared to FY 1976 while increasing imports of women's and misses' blouses and shirts. The customer redirected a large share of its business to foreign sources in the first quarter of FY 1978, and had not contracted with Geralyn Blouse Company, Incorporated since that time.

On June 22, 1978, the U.S. Department of Commerce certified Geralyn Blouse Company, Incorporated as eligible to apply for firm adjustment assistance.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and misses' blouses and shirts produced at Geralyn Blouse Company, Incorporated, New York, New York, contributed importantly to the decline in sales or production and to the total or partical separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Geralyn Blouse Company, Incorporated, New York, New York who became totally or partially separated from employment on or after November 9, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-511 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-4294]

**INTERNATIONAL HAT CO., LUTESVILLE, MO.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4294: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 25, 1978 in response to a worker petition received on October 23, 1978 which was filed on behalf of workers and former workers producing men's wool hats and caps and men's hats and caps of cotton and polyester at International Hat Company, Lutesville, Missouri.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of International Hat Company, its customers, Headwear Institute of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A customer survey revealed that most surveyed customers who reduced purchases of hats from International Hat did not increase purchases of imported hats. One customer who did purchase imports represented an insignificant portion of sales by International Hat.

CONCLUSION

After careful review, I determine that all workers of International Hat Company, Lutesville, Missouri are denied eligibility tp apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of December 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 79-512 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-4307]

**JATON CORP., BOSTON, MASS.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4307: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 30, 1978 in response to a worker petition received on October 26, 1978 which was filed on behalf of workers and former workers producing women's sportswear at the Jaton Corporation, Boston, Massachusetts.

The investigation revealed that the plant primarily produces women's skirts.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51866). No public hearing was requested and none was held.

The information upon which the determination was made was obtained

* The company's fiscal year begins in July and ends in June of the named year.

principally from officials of Jaton Corporation, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of women's skirts at the Jaton Corporation increased in 1977 compared to 1976 and in the first three quarters of 1978 compared to the same period in 1977. As a contractor, sales and production at the Jaton Corporation are the same.

CONCLUSION

After careful review, I determine that all workers of Jaton Corporation, Boston, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-513 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-3955 and 3955A]

**KREISLER MANUFACTURING CORP., ST. PETERSBURG, FLA., CLEARWATER, FLA.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3955 and 3955A: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 6, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers producing leather watch straps, lighters and desk sets at Kreisler Manufacturing Corporation, St. Petersburg, Florida. the investigation was expanded to include workers producing metal watch bands at the Clearwater, Florida plant of Kreisler Manufacturing Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30927). No public hearing was requested and none was held.

On April 21, 1977, the Department of Commerce certified Kreisler Manufacturing Corporation as eligible to apply for firm adjustment assistance.

The determination was based upon information obtained principally from officials of Kreisler Manufacturing Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of watchbands increased from 30,630,000 dollars in 1976 to 34,019,000 dollars in 1977, and from 15,539,000 dollars in the first half of 1977 to 23,823,000 dollars in the first half of 1978. The ratio of imports to domestic production increased from 103 percent in 1976 to 108 percent in 1977, and from 102 percent in the first half of 1977 to 149 percent in the first half of 1978.

Imports of refillable lighters increased from 31.5 million units in 1976 to 34.1 million units in 1977, and the ratio of imports to domestic production increased from 93 percent to 100 percent in this period.

The Department surveyed several of Kreisler's major customers. All of the respondents who purchased watch bands from Kreisler also purchased imported watch bands. Several of these customers increased their purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with watchbands produced at Kreisler Manufacturing Corporation, St. Petersburg and Clearwater, Florida contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Kreisler Manufacturing Corporation, St. Petersburg and Clearwater, Florida who became totally or partially separated from employment on or after October 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-514 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-3964]

**LISA MARIE SPORTSWEAR, INC., PHILLIPSBURG, N.J.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3964: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 11, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers producing ladies' lined and unlined blazers at Lisa Marie Sportswear, Inc., Phillipsburg, New Jersey. The Department's investigation revealed that the company also produced ladies' blouses, slacks and vests.

The Notice of Investigation was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32199). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Lisa Marie Sportswear, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department surveyed the major manufacturers for whom Lisa Marie worked in 1977. The survey revealed that manufacturers which imported increased purchases from Lisa Marie in 1977 compared to 1976. Lisa Marie closed in November 1977, then reopened in August 1978.

CONCLUSION

After careful review, I determine that all workers of Lisa Marie Sportswear, Inc., Phillipsburg, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of December 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 79-515 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-3922]

**M. H. LAZARUS, DIVISION OF U.S. INDUSTRIES, INC., NEW YORK, N.Y.**

**Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3922: investigation regarding certification of eligiblity to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 29, 1978 in response to a worker petition received on June 28, 1978 which was filed by the Distributive Workers of America on behalf of workers and former workers producing cotton goods, upholstery, plastic and fiberglass material at the M. H. Lazarus Division of U.S. Industries, Inc., New York, New York. During the course of the investigation, it was determined that the New York, New York location of the M. H. Lazarus Division is a converter of greige goods and served as a warehouse for material purchased from the mills.

The Notice of Investigation was published in the FEDERAL REGISTER on July 11, 1978 (43 FR 29851). No public hearing was requested and none was held.

The determination was based upon information obtained prinicpally from officials of M. H. Lazarus, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The New York warehouse of M. H. Lazarus stored greige goods prior to their shipment to printers and dyers. Separations from the warehouse occurred in August 1977 when the firm consolidated the warehouse operations into a Lazarus plant in North Carolina. Inventories at the North Carolina plant increased with the transfer of inventories from the New York warehouse.

CONCLUSION

After careful review, I determined that all workers of M. H. Lazarus Division of U.S. Industries, Inc., New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 26th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-516 Filed 1-4-79; 8:45 am]

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[4510-26-M]

[TA-W-2909]

**NORSTAN INDUSTRIES, INC., NEW YORK, N.Y., ATLANTA, GA.**

**Revised Certification of Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 the Department of Labor issued a certification of eligibility to apply for adjustment assistance on November 3, 1978, applicable to all workers at Norstan Industries, Inc., New York, New York, who became totally or partially separated from employment on or after December 16, 1977, and all workers at the Atlanta, Georgia, facility of Norstan Industries Inc., who became totally or partially separated from employment on or after July 1, 1977. The Notice of Investigation was published in the FEDERAL REGISTER on November 13, 1978 (43 FR 52562).

At the request of a state employment security agency official, a further investigation was made by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that about four layoffs occurred shortly before the impact date originally set in the Department's certification of the New York facility. These layoffs were not covered by the original impact date.

The intent of the certification is to cover all workers at Norstan Industries, Inc., who were adversely affected by the decline in the production of sportswear related to import competition. The certification, therefore, is revised providing a new impact date of December 1, 1977, for the New York facility but leaving unchanged the impact date for the Atlanta plant.

The revised certification applicable to TA-W-2909 is hereby issued as follows:

All workers at the New York facility of Norstan Industries, Inc., who became totally or partially separated from employment on or after December 1, 1977, and all workers at the Atlanta, Georgia, facility of Norstan Industries, Inc., who became totally or partially separated from employment on or after July 1, 1977, are eligible to apply for adjustment assistance under Title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of December, 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 79-517 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-4053]

**PRODUCERS MINERALS CORP., SAFFORD, ARIZ.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4053: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 10, 1978 in response to a worker petition received on August 7, 1978 which was filed on behalf of workers formerly producing cement copper at the Safford, Arizona mine of Producers Minerals Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38634). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Producers Minerals Corporation, its customers, *American Metal Market*, the American Bureau of Metal Statistics, the U.S. Department of the Interior, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976 and to 391 thousand short tons in 1977. Imports increased from 164 thousand short tons in the first six

months of 1977 to 327 thousand short tons in the first six months of 1978.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1975 to 21.0 percent in 1976 and to 22.2 percent in 1977. The ratio increased from 15.0 percent in the first six months of 1977 to 35.9 percent in the first six months of 1978.

The Department's investigation revealed that the price paid for the cement copper produced by Producers Minerals Corporation was determined directly from the prevailing domestic price of copper precipitate. The company closed the Safford facility because it had been losing money due to the depressed price of copper.

The level of imports of copper is affected by the differential between the domestic producers price for copper and the price established by the LME (London Metal Exchange). When the LME price drops more that the estimated transportation cost of 5 cents per pound below the domestic producers price, the demand for imported copper increases. During the last nine months of 1977 and the first six months of 1978, the average LME price had fallen almost 8 cents per pound below the average domestic producers price.

The major factor contributing to depressed prices has been an oversupply of imported and domestic copper, as evidenced by U.S. inventory levels of refined copper. U.S. inventories of refined copper were higher in every month of 1977, except December, when compared to the same month in 1976. Inventories in December 1977 were less than one percent below December 1976 levels. In the first six months of 1978, inventories surpassed levels in the same months of 1977, with the exception of March which was only marginally below the same month in the previous year. The abundant supply of copper stocks in the forseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977 and in the first half of 1978, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased. Copper imports increased slightly in 1977 compared to 1976 and then doubled in the first half of 1978 compared to the same period in 1977.

Price pressure from imported copper has reduced the ability of domestic producers to profitably mine domestic ore and convert it to copper concentrate and refined copper. The current price of copper precipitate prevents Producers Minerals Corporation from continuing to profitably produce cement copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with cement copper produced at Producers Minerals Corporation, Safford, Arizona contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Producers Minerals Corporation, Safford, Arizona, who became totally or partially separated from employment on or after August 2, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of December 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 79-518 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-4161]

**REIDER SHOE MANUFACTURING CO., INC., SCHULKILL HAVEN, PA.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4161: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 14, 1978 in response to a worker petition received on September 8, 1978 which was filed on behalf of workers and former workers producing men's, women's and young girls' shoes at Reider Shoe Manufacturing Company, Incorporated, Schuylkill Haven, Pennsylvania. The investigation revealed that the plant produces men's, women's, and children's nonrubber shoes.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43587). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Reider Shoe Manufacturing Company, Incorporated, Schuylkill Haven, Pennsylvania, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of nonrubber footwear (aggregate) decreased from 368.2 million pairs in 1976 to 366.7 million pairs in 1977 and decreased to 184.4 million pairs in the first half of 1978 compared with 193.9 million pairs in the first half of 1977. The ratio of imports to domestic production increased from 87.6 percent in 1976 to 94.4 percent in 1977. The ratio of imports to domestic production decreased to 90.6 percent in the first half of 1978 compared with 98.0 percent in the first half of 1977.

On December 12, 1977, the U.S. Department of Commerce certified Reider Shoe Mfg. Co., Inc. eligible to apply for trade adjustment assistance. The Department of Commerce found that customers who had increased purchases of imports while decreasing purchases from Reider Shoe had contributed significantly to Reider Shoe's loss of sales and production.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's, women's and children's nonrubber shoes produced at Reider Shoe Manufacturing Company, Incorporated, Schuylkill Haven, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Reider Shoe Manufacturing Company, Incorporated, Schuylkill Haven, Pennsylvania who became totally or partially separated from employment on or after September 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-519 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-3869]

**STOUT SPORTSWEAR CO., LONG ISLAND CITY, N.Y.**

**Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3869: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 19, 1978 in response to a worker petition received on June 12, 1978 which was filed on behalf of workers and former workers producing women's sportswear at Stout Sportswear, Long Island City, New York. The investigation revealed that the plant primarily produces women's large-size sportswear.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Stout Sportswear Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's, misses', and children's blouses and shirts and slacks and shorts increased absolutely from 1976 to 1977 and in the first half of 1978 compared to the same period of 1977.

Imports of women's, misses' and children's skirts and dresses decreased absolutely from 1976 to 1977 and increased absolutely in the first half of 1978 compared to the same period of 1977. The ratio of imports to the domestic production of skirts increased from 1976 to 1977. The ratio of imports to the domestic production of dresses decreased from 1976 to 1977.

Stout Sportswear imports women's large-size sportswear. Imports represented a significant proportion of total company sales in 1978.

The Department conducted a survey of some of the customers of Stout Sportswear. The survey indicated customers increased purchases of imported women's larger size sportswear and decreased purchases from Stout Sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's sportswear produced at Stout Sportswear Company, Long Island City, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Stout Sportswear Company, Long Island City, New York who became totally or partially separated from employment on or after March 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-520 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-4401]

## SURREY KNITTING MILLS, INC., PHILADELPHIA, PA.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4401: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 16, 1978 in response to a worker petition received on November 14, 1978 which was filed by the Knitgoods Union, International Ladies' Garment Workers' Union on behalf of workers and former workers producing men's sweaters at Surrey Knitting Mills, Incorporated in Philadelphia, Pennsylvania. The investigation revealed that the plant also produces some women's sweaters.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55011-55012). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Surrey Knitting Mills, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

An order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of men's and women's sweaters, in both quantity and value, increased at Surrey Knitting Mills, Incorporated in 1977 compared with 1976 and in January through November period of 1978 compared with the same period in 1977. Sales and production are equal at Surrey Knitting Mills, Incorporated.

CONCLUSION

After careful review, I determine that all workers of Surrey Knitting Mills, Incorporated, in Philadelphia, Pennsylvania are denied eligibiltiy to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-521 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W- 4356 and 4356A]

## VOYAGER SPORTSWEAR, INC., NEW BEDFORD, MASS., NEW YORK, N.Y.

### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4356 and 4356A: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 7, 1978 in response to a worker petition received on November 6, 1978 which was filed on behalf of workers and former workers producing children's sportswear at Voyager Sportswear, Incorporated in New Bedford, Massachusetts. Voyager Sportswear produces children's slacks, blouses, skirts, jumpers and jackets. The investigation was expanded to include the New York, New York sales office of Voyager Sportswear, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on November 17, 1978 (43 FR 53852-53). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Voyager Sportswear, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations,

or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that employment declines that occurred in December, 1977 at Voyager Sportswear, Incorporated are consistent with the normal seasonal pattern found within the apparel industry.

Voyager Sportswear began manufacturing operations in June of 1977. Average monthly employment remained fairly constant from July through Novermber, 1977. The firm closed at the end of November and during the month of December, 1977 due to decline in orders. From January through November, 1978 monthly employment was steady, returning to the levels established prior to the December shutdown.

Voyager Sportswear is faced with another decline in orders of its product line in December of 1978 and has accepted contract work in order to avoid a shutdown.

CONCLUSION

After careful review, I determine that all workers of the New Bedford, Massachusetts plant and the New York, New York sales office of Voyager Sportswear, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of December, 1978.

JAMES F. TAYLOR,
*Director, Office of Management, Administration, and Planning.*

[FR Doc. 79-522 Filed 1-4-79; 8:45 am]

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[4510-28-M]

[TA-W-3756]

**WESTERN PUBLISHING CO., ST. LOUIS, MO.**

**Negative Determination Regarding Application for Reconsideration**

On November 2, 1978, the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of the St. Louis, Missouri, plant of the Western Publishing Company, Racine, Wisconsin. The determination was published in the FEDERAL REGIATER on October 20, 1978, (43 FR 49079).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner makes the claim that imports of printed materials including those that are lithographed was the cause for the closing of the St. Louis, Missouri, plant in May, 1978.

The Department reviewed the investigative file for the worker petition on the St. Louis, Missouri, plant, TA-W-3756, and performed additional investigative functions. The Department learned that the St. Louis plant closed because of a management decision to economize and consolidate. That decision had nothing to do with import competition. New technology and the high cost of paper affected the lithographic work at the St. Louis plant. Also bearing on the management's decision to close the St. Louis plant was the plant's location and the existence of duplicate equipment at the corporation's other plants in Racine, Wisconsin, Cambridge, Maryland, and Poughkeepsie, New York. The printing work formerly performed at the St. Louis plant has been transferred to these other plants.

The Department's denial was based on the fact that imports of posters, highway billboards and pamphlets are negligible. Printed matter for advertising purposes is imported into the U.S. under six TSUSA numbers which include other items such as photographs, engravings, etchings, lithographs and woodcuts. The ratio of imports to domestic production is only about 0.1 percent.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 28th day of December, 1978.

HARRY J. GILMAN,
*Acting Director, Office of Foreign Economic Research.*

[FR Doc. 79-523 Filed 1-4-79; 8:45 am]

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[7510-01-M]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-2]

**RICHARD C. HENRY**

**Certification**

Pursuant to the provision contained in section 207 of Title 18 U.S.C. (P.L. 87-849, 76 Stat. 1124), having found that Dr. Richard C. Henry, formerly Deputy Director, Astrophysics Division, Office of Space Science, Headquarters, National Aeronautics and Space Administration (NASA), and presently an employee of Johns Hopkins University, Baltimore, Maryland, possesses outstanding scientific qualifications, I certify that the national interest would be served by the said Dr. Richard C. Henry acting as agent for or appearing personally before NASA on behalf of Johns Hopkins University in connection with the negotiation and administration of contracts or grants by the University with NASA, and the performance of work under such University contracts or grants with NASA, for research in space astronomy and astrophysics, on matters in which he participated personally and substantially as an employee of NASA or which were under his official responsibility as a NASA employee.

This certification is directed to be published in the FEDERAL REGISTER.

Dated: December 21, 1978.

ROBERT A. FROSCH,
*Administrator.*

[FR Doc. 79-450 Filed 1-4-79; 8:45 am]

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[7590-01-M]

## Nuclear Regulatory Commission

[Docket No. 50-344]

**PORTLAND GENERAL ELECTRIC CO., THE CITY OF EUGENE, OREG., PACIFIC POWER & LIGHT CO.**

**Notice of Issuance of Amendment to Facility Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has, pursuant to the Partial Initial Decision of its Atomic Safety and Licensing Board (ASLB) dated December 21, 1978, issued Amendment No. 35 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensee), which revised the license and appended Technical Specifications for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon. The amendment is effective as of its date of issuance.

The amendment consists of the addition of operating restrictions to the license and a waiver of those portions of Appendix A Technical Specification 5.7.1 and the Final Safety Analysis Report criteria referenced therein which describe the seismic capacity of the Trojan Control Building and which are not complied with because of design deficiencies in the Control Building shear walls originally identified in the licensee's letter dated May 5, 1978. The operating restrictions to the license prohibit modifications which may reduce the strength of the Control Building shear walls unless approved by the NRC, and require that in the event of an earthquake having greater than 0.08g peak ground acceleration the facility be brought to cold shutdown and inspected for any effects of the earthquake. Finally, the amendment requires that the on-going seismic qualification program with respect to certain piping systems be completed prior to resumption of reactor operation. The operation of Trojan will be subject to further Order of the Atomic Safety and Licensing Board with respect to the scope and timeliness of structural modifications to the Control Building.

The Partial Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

On May 26, 1978, the NRC's Director of Nuclear Reactor Regulation issued an Order for Modification of License that set forth findings that design errors in the Control Building shear walls had reduced the seismic capability of the Control Building; that the originally intended seismic capability should be substantially restored by modifications to that structure; and that operation of the facility with the Control Building in its as-built condition would violate the existing facility license. Based on the related safety evaluation by the NRC staff, however, the Order stated that the Control Building nevertheless had adequate structural capacity to resist the licensed Safe Shutdown Earthquake and that the facility operating license should be modified to permit operation, with conditions, in the interim period prior to approval and completion of modifications required by the Order.

The Order also provided opportunity for hearing and was published in the FEDERAL REGISTER on June 1, 1978 (43 FR 23768). Requests for hearing were to be filed by June 26, 1978, and, in the event that a hearing was ordered, the terms of the Order would not become effective until a hearing was held.

Numerous requests for a hearing were received. The requests filed by: Columbia Environmental Council; Eugene Rosolie, acting on his own behalf and as representative of the Coalition for Safe Power; Stephen M. Willingham; David B. McCoy; C. Gail Parson; Nina Bell; and the Bonneville Power Administration were granted. In addition, the State of Oregon was granted leave to participate as an interested State.

The hearing was held October 23 through November 3, and December 11-14, 1978, in Salem and Portland, Oregon. The above-referenced Partial Initial Decision was subsequently issued on December 21, 1978.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) letters from the licensee dated May 5, 24, and 26; June 30; August 19, and 21; September 1, 12 and 20; October 4, 6, 10, 13, 17, and 27; November 2, 22 and 24, 1978; (2) Amendment No. 35 to License No. NPF-1; (3) Order for Modification of License dated May 26, 1978 and related Safety Evaluation; and (4) the Partial Initial Decision of the Atomic Safety and Licensing Board dated December 21, 1978.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A single copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of December, 1978.

For the Nuclear Regulatory Commission.

CHARLES M. TRAMMELL,
*Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc. 79-438 Filed 1-4-79; 8:45 am]

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[7590-01-M]

[Docket Nos. 50-443, 50-444]

**PUBLIC SERVICE COM. OF NEW HAMPSHIRE, ET AL. (SEABROOK STATION, UNITS 1 AND 2)**

**Hearing**

DECEMBER 27, 1978.

An alternative site issue is still pending in this proceeding. Its significance at this late date stems from two factors: (1) the possibility that the proposed Seabrook facility will eventually be required to use large towers to recirculate its cooling water rather than, as the Environmental Protection Agency has ruled, being allowed to return the heated water directly to the ocean;[1] and (2) the absence of a valid decision by this agency on whether, if cooling towers were required at Seabrook, a nuclear facility at that site would remain environmentally acceptable when compared to other sites.[2]

The NRC staff has now come to the conclusion, supported by a lengthy analysis, that the Seabrook facility remains acceptable even with cooling towers added. The Seacoast Anti-Pollution League, which opposes the facility, wishes to challenge that conclusion. The applicant utility companies are in essential agreement with the staff, except that they believe that Seabrook compares even more favorably to one of the alternatives (Phillips Cove) than the staff recognizes. No party having sought to have the matter disposed of under the Commission's summary disposition procedures, a hearing is necessary to resolve these disputes.

In accordance with our prior orders, notice is hereby given that an evidentiary hearing, *limited to the cooling tower/alternatives site issue described above,* will commence at 9:30 a.m. on Monday, January 15, 1979, in the Courtroom of the Superior Court, Hillsborough County Courthouse, 19 Temple Street, Nashua, New Hampshire. The hearing will continue through that week unless concluded earlier. Because there have been prior opportunities for members of the public to make limited appearance statements on this issue at Licensing

[1] The EPA decision is presently being challenged in the courts.

[2] This Board earlier held that prior analyses of this subject had been inadequate.

Board hearings, we will not be entertaining limited appearances at this hearing.

For the Appeal Board.

ROMAYNE M. SKRUTSKI,
*Secretary to the Appeal Board.*

[FR Doc. 79-439 Filed 1-4-79; 8:45 am]

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[7590-01-M]

[Docket Nos. 50-443 and 50-444]

**PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL.**

**Issuance of Amendment to Construction Permits**

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit No. CPPR-135 and Amendment No. 1 to Construction Permit No. CPPR-136 issued to the Public Service Company of New Hampshire, The United Illuminating Company, Central Maine Power Company, Central Vermont Public Service Corporation, The Connecticut Light and Power Company, Fitchburg Gas and Electric Light Company, Montaup Electric Company, New Bedford Gas & Edision Light Company, New England Power Company, Green Mountain Power Corporation, and Vermont Electric Power Company, Inc. The amendments reflect changes in ownership and transfer of shares of the Seabrook Station, Units 1 and 2 (the facility), located in Rockingham County, New Hampshire. The amendments are effective as of their date of issuance.

These amendments provide for the deletion of the Green Mountain Power Corportation, Inc., and the addition of Town of Hudson, Massachusetts, Light and Power Department; Vermont Electric Cooperative, Inc.; Bangor Hydro-Electric Company; and Taunton Municipal Lighting Plant as applicants for all licenses previously requested, and the transfer of partial ownership shares as noted in the construction permit amendments for these applicants and for eight other continuing applicants.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendments.

For further details with respect to this action, see (1) the application for amendments contained in Public Service Company of New Hampshire's letters, dated May 15, 1978, and October 16, 1978; (2) Amendment No. 1 to Construction Permit No. CPPR-135; (3) Amendment No. 1 to Construction Permit No. CPPR-136; and (4) the Commission's letter to Public Service Company of New Hampshire and the related Safety Evaluation attached thereto. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03833.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland this 27th day of December 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
*Chief, Light Water Reactors Branch 4, Division of Project Management.*

[FR Doc. 79-440 Filed 1-4-79; 8:45 am]

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[7590-01-M]

[NUREG-75/087]

**REVISION TO THE STANDARD REVIEW PLAN**

**Notice of Issuance and Availability**

As a part of the continual maintenance of the Standard Review Plan (SRP), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to the Table of Contents for the NRC staff's Standard Review Plan for applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Virginia 22161. The domestic price is $70.00 including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 to the Table of Contents is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda this 20 day of December, 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
*Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.*

[FR Doc. 79-442 Filed 1-4-79; 8:45 am]

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[7590-01-M]

[Docket Nos. 50-390 and 50-391]

**TENNESSEE VALLEY AUTHORITY**

**Notice of Availability of Final Environmental Statement for the Watts Bar Nuclear Plant, Units 1 and 2**

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed operation of the Watts Bar Nuclear Plant located in Rhea County, Tennessee, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and in the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee. The Final Environmental Statement is also being made available at the State Planning Office, Grants Review Section, 660 Capital Hill Building, Nashville, Tennessee, and at the Chattanooga Area Regional Council of Governments/SETDD, 413 James Building, 735 Broad Street, Chattanooga, Tennessee.

The notice of availability of the Draft Environmental Statement for the Watts Bar Nuclear Plant, Units 1 and 2, and requests for comments from interested persons was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25210). The comments received from Federal, State, and local agencies and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (Document No. NUREG 0498) may be purchased, at $9.50 for printed copies and $3.00 for micro-

fiche, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 28th day of December 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
*Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.*

[FR Doc. 79-441 Filed 1-4-79; 8:45 am]

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[4910-58-M]

## NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. DCA-79-AR-013]

### RAILROAD ACCIDENT—ELMA, VA.

#### Accident Investigation Hearing

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 9:00 a.m. (local time) January 30, 1979, in Conference Room 9 A-B-C of Federal Office Building 10A, 800 Independence Avenue, SW., Washington, D.C. 20594.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving the derailment of Southern Railway Company Passenger train No. 2, The Crescent, which occurred December 3, 1978, at Elma, Nelson County, Va.

ELMER GARNER,
*Hearing Officer.*

JANUARY 2, 1979.

[FR Doc. 79-464 Filed 1-4-79; 8:45 am]

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[3110-01-M]

## OFFICE OF MANAGEMENT AND BUDGET

### CLEARANCE OF REPORTS

#### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/26/78 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

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

#### PENSION BENEFIT GUARANTY CORPORATION

Audit Verification Questionnaire
Annually
100 plan participants
100 responses; 10 hours
Strasser, A., 395-6132

#### VETERANS ADMINISTRATION

Application for Reimbursement of Headstone or Marker Expenses
21-8834
On occasion
10,000 dependents
10,000 responses; 1,667 hours
Caywood, D. P., 395-6140

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education
Basic Educational Opportunity Grant Quality
OE-628
Single-time
4,200 Financial Aid Officers; BEOG grantees and parents
4,200 responses; 3,725 hours
Laverne V. Collins, 395-3214

National Institute of Education
Study of In-School ALternatives to Suspension
NIE 197 A-F
Single-time
164 students, parents, teachers and school administrators
164 responses; 82 hours
Laverne V. Collins, 395-3214

Health Care Financing Administration (Medicaid)
Sterilizations and Hysterectomies
HCFA/OHDS 80
Quarterly
432 title XIX and title XX agencies
432 responses; 2,808 hours
Richard Eisinger, 395-3214

#### DEPARTMENT OF LABOR

Employment and Training Administration
Continuous Wage and Benefit History (CWBH)
Supplemental Questionnaire Evaluation
ETA-18
Single-time
3,000 unemployment insurance claimants
3,000 responses; 750 hours
Strasser, A., 395-6132

### REVISIONS

#### DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service
Sugar Market News Reports
FV-63, 70, 71, 72, and 74
Monthly
896 sugar refiners and processors
896 responses; 655 hours
Office of Federal Statistical Policy and Standard, 673-7956

#### DEPARTMENT OF COMMERCE

Bureau of Census
Steel Power Boilers
MA-34G
Annually
Manufacturers of steel power boilers
30 responses; 15 hours
C. Louis Kincannon, 395-3211

Bureau of Census
Pulp, Paper, and Board (Production, Consumption, and Inventories)
M-26A
Monthly
Paper and Paperboard Mills
7,200 responses; 3,600 hours
Office of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
Pulp, Paper, and Board—annual Report
MA-26C
Annually
Paper and Paperboard Mills
700 responses, 700 hours
Office of Federal Statistical Policy and Standard, 673-7956

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Study of Eligibility and Participation Under SSI
SSA-3899
Single-time
Low-income aged people eligible/receiving SSI benefits
2,000 responses; 1,833 hours
Reese, B. F., 395-3211

#### DEPARTMENT OF LABOR

Employment Standards Administration
Coal Mine Employment Statements
CM-913, CM-918, and CM-1093
On occasion
Coal miners and survivors
55,000 responses; 17,500 hours
Strasser, A., 395-6132

EXTENSIONS

NATIONAL CREDIT UNION ADMINISTRATION

Monthly Sample (Federal) Monthly Sample (State)
NCUA 5301, NCUA 5303
Monthly
Federal and State credit unions
12,000 responses; 2,000 hours
Geiger, Susan B., 395-5867

DEPARTMENT OF AGRICULTURE

Forest Service
Application for Permits Non-Federal Commercial Use of Roads Restricted by Order
7700-40
On occasion
Non-Federal commercial haulers
2,000 responses; 500 hours
Ellett, C. A., 395-6132

DEPARTMENT OF LABOR

Bureau of Labor Statistics
Characteristics of the Insured Unemployed
ES-203
Monthly
Local and Central Office Rec. for unemploy. insurance claim.
624 responses; 57,400 hours
Off. of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF STATE

Department of State (excl. aid and action)
Statement Regarding Actions on Behalf of Foreign Principals
DSP-80
On occasion
Applicants for Employment
10,000 responses; 2,500 hours
Marsha Traynham, 395-6140

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration
Application for an Airman Certificate and/or Rating
FAA 8400-3
On occasion
Airmen
8,000 responses; 800 hours
Geiger, Susan B., 395-5867

DAVID R. LEUTHOLD,
*Budget and Management Officer.*

[FR Doc. 79-444 Filed 1-4-79; 8:45 am]

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[3110-01-M]

## CLEARANCE OF REPORTS

### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 12/27/78 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

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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

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration
External Youth Opportunity Program
FHWA-1469
Annually
State highway agencies
52 responses; 26 hours
Geiger, Susan B., 395-5867

REVISIONS

DEPARTMENT OF LABOR

Labor Management and Service Administration
Labor Organization Reports
LM-1, LA, 2, 3, LMSA-20
On occasion
Labor Unions
81,200 responses; 74,141 hours
Strasser, A., 395-6132

Labor Management and Service Administration
Employer Activity Reports
LM-10, 20, 21
On occasion
Employers involved finan. w/labor unions & labor consul.
390 responses; 160 hours
Strasser, A., 395-6132

Labor Management and Service Administration
Trusteeship Reports
LM-6, 16, 15, 15A
On occasion
Labor unions
950 responses; 712 hours
Strasser, A., 395-6132

Bureau of International Labor Affairs
Standard Questionnaire for Manufacturing Firms
ILAB-235 A/B
On occasion
Manufacturers
1,000 responses; 10,000 hours
Strasser, A., 395-6132

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service
Application for fur trapping permit
FWS No. 3-2001
Annually
Individual fur trappers
2,000 responses; 1,000 hours
Ellett, C. A., 395-6132

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration
Airport Aid Program—FAR Part 152
FAA 5100-30, 100, 101, 60, 61, 62, 63
On occasion
State and local governments
13,944 responses; 184,960 hours
Geiger, Susan B., 395-5867

Federal Aviation Administration

Airport Activity Survey (by selected air carriers)
1800-31
Semi-annually
Air taxi operators
1,690 responses; 423 hours
Geiger, Susan B., 395-5867

National Highway Traffic Safety Administration
Motorist Sanction Severity Survey
Single-time
Licensed drivers
3,000 responses; 750 hours
Geiger, Susan B., 395-5867

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development
Request for Verification of Deposit—Rehabilitation Loan and Grant Programs
HUD-6234
On occasion
Financial institutions
11,000 responses; 2,750 hours
Strasser, A., 395-6132

Community Planning and Development
Request for Rehabilitation Loan Check—Rehabilitation Loan Progam
HUD-6236
On occasion
Owners/occupants applying for sec. 312 rehab. loan
11,000 responses; 5,500 hours
Strasser, A., 395-6132

Community Planning and Development
Personal Financial Statement
HUD-6243A
On occasion
Investor in Sole Proprietorship in Resi. or Mixed Use Prop.

5,500 responses; 5,500 hours
Strasser, A., 395-6132

Community Planning and Development
Preliminary Eligibility Determination Inquiry
HUD-6500
On occasion
Property owners unable to obtain insur. under fair
100 responses; 50 hours
Strasser, A., 395-6132

Community Planning and Development
Request for Verification of Employment—Rehabilitation Loan Program
HUD-6233
On occasion
Employ. of applicants for sec. 312 rehabilitation loans
11,000 responses; 5,500 hours
Strasser, A., 395-6132

Community Planning and Development
Application for Rehabilitation Loan-Owner-Occupied Property Containing one-to-four Dwelling Units
HUD-6230
On occasion
Owner-occupants of one to four-dwelling units
5,500 responses; 5,500 hours
Strasser, A., 395-6132

Community Planning and Development
Application for Rehabiliation Loan—Investor Owned Residential Property or Mixed-Use Loan
HUD-6243
On occasion
Investors owning residential or mixed use properties
5,500 responses; 33,000 hours
Strasser, A., 395-6132

Community Planning and Development
Request for Verification of Mortgage or Deed of Trust
HUD-6239
On occasion
Mortgage-holding institutions
11,000 responses; 2,750 hours
Strasser, A., 395-6132

DEPARTMENT OF LABOR

Employment and Training Administration
Office of Federal Contract Compliance Order No. 4—Guidelines for Developing & Evaluating Affirmative Action Program
On occasion
Guidelines for Affirmative Action Programs;
Strasser, A., 395-6132

Employment and Training Administration
Apple Harvest Recruitment
ETA 7-158
Annually
Growers who antici. a need for temp. agri. workers
160 responses; 320 hours
Strasser, A., 395-6132

DAVID R. LEUTHOLD,
*Budget and Management Officer.*

[FR Doc. 79-446 Filed 1-4-79; 8:45 am]

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[3110-01-M]

## CLEARANCE OF REPORTS

### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 28, 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 name of the agency sponsoring the proposed collection of information;

The title of each request received;

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 through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

### NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of Census
Conventional Address Register—1980 Decennial Census
D-104, D-104A, D-104B
Single-time
6,000,000 house. and spec. places in the conventional area
6,000,000 responses; 300,000 hours
Office of Federal Statistical Policy and Standard, 673-7956

National Oceanic and Atmospheric Administration
Cape Cod Visitor Questionnaire
Single-time
2,000 individuals and housholds who visited Cape Cod
2,000 responses; 200 hours
C. Louis Kincannon, 395-3211

Bureau of Economic Analysis
Report on a Foreign Person's Establishment, Acquisition, or Purchase of the Operating Assets of a U.S. Business Enterprise, Including Real Estate
BE-13
On occasion
400 U.S. business enterprises newly acquired by foreigners
400 responses; 800 hours
Office of Federal Statistical Policy and Standard, 673-7956.

Bureau of Census
Manhattan Housing Unit Coverage Listing Book
D-817(XN)
Single-time
5,800 housesholds in lower Manhattan (N.Y.) dress rehearsal area
5,800 responses; 121 hours
Office of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
Precanvass Address Register—1980 Decennial Census
D-103, D-103A, D-103B
Single-time
27,000,000 households in tape address register areas
27,000,000 responses; 900,000 hours
Office of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF TREASURY

Bureau of Customs
Drawback entry covering rejected merchandise
7,539
On occasion
2,100 manufacturers and producers
2,100 responses; 420 hours
Geiger, Susan B., 395-5867

### REVISIONS

DEPARTMENT OF COMMERCE

Economic Development Administration
LPW Project Performance Report
ED-113A
Quarterly
Recipients of round I and round II LPW grants
38,684 responses; 32,108 hours
C. Louis Kincannon, 395-3211

Bureau of Census
Report on shipments to Federal Government agencies
MA-175
Annually
Industrial plants in industries shipping to Federal Government
7,000 responses; 7,000 hours
Office of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
Annual Demographic Survey—March 1979
CPS-665, CPS-670
On occasion

61,000 households in 1979 CPS and 2,500 Hispanic households in 1978
63,500 responses; 26,450 hours
Office of Federal Statistical Policy and Standard, 673-7956.

Bureau of Census
Commercial steel forgings
MA-34C
Annually
Manufacturers of steel forgings for sale
240 responses; 160 hours
Off. of Federal Statistical Policy & Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Application for disability insurance benefits
SSA-16 F6
On occasion
Persons filing for soc sec. ben. as disabled person
1,000,000 responses; 146,666 hours
Reese B. F. 395-3211

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit
Health authority approval—individual water supply and sewage disposal system
FHA-2573
On occasion
Local health authority
4,000 responses; 4,000 hours
Strasser, A. 395-6132

Housing Production and Mortgage Credit
Request for final endorsement of credit instruments
FHA 2023
On occasion
Project mortagagees/mortagagors
465 responses; 465 hours
Strasser, A., 395-6132

Community Planning and Development
Project Expenditures Budget (Urban renewal program)
HUD-6220
On occasion
Local public agencies with urban renewal projects
100 responses; 50 hours
Budget Review Division, 395-4775

DEPARTMENT OF TREASURY

Bureau of Customs
Warehouse withdrawal—conditionally free of duty, and permit
CF 7506
On occasion
Importers
92,500 responses; 9,250 hours
Geiger, Susan B., 395-5867

Bureau of Customs
Transportation entry and manifest of goods subject to Customs Inspection and "United States—Canada Transit Mnaifiest"
CF 7512, 7512A, 7512B
On occasion
Brokers, carriers
1,300,000 responses; 130,000 hours
Geiger, Susan B., 395-5867

DAVID R. LEUTHOLD,
*Budget and Management Officer.*

[FR Doc. 79-447 Filed 1-4-79; 8:45 am]

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[3110-01-M]

## CLEARANCE OF REPORTS

### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the office of management and budget on December 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 name of the agency sponsoring the proposed collection of information;

The title of each request received;

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary
Pension Equity Measurement Questionnaire
OS-14-78
Single-time
750 purposive sample in chicago area
750 responses; 750 hours
Office of Federal Statistical Policy and Standard, 673-7956

REVISIONS

VETERANS ADMINISTRATION

Claim for monthly payments (USGLI)
29-4125K
On occasion
Beneficiary
12,000 responses; 3,000 hours
Caywood, D. P., 395-6140

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Vocational Survey Form
HA-625
On occasion
Claimants
120 responses; 240 hours
Reese B. F., 395-211

EXTENSIONS

DEPARTMENT OF DEFENSE

Departmental and other
MIL-P-9024G (USAF) "Packaging, Handling, and Transportability in System/Equipment Acquisition"
On occassion
Aerospace, Electronic/Missile Contractor
450 responses; 7,650 hours
Caywood, D. P., 395-6140

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration
Road-User and Property Taxes on selected motor vehicles
FHWA-1501A-N
Other (See SF-83)
50 State and D.C. Highway Agencies
51 responses; 408 hours
Geiger, Susan B., 395-5867

Federal Highway Administration
Federal-Aid Highway Construction Contractor's Semiannual Training Report
FHWA-1409
Quarterly
Highway construction contractors
12,000 responses; 6,000 hours
Geiger, Susan B., 395-5867

DAVID R. LEUTHOLD,
*Budget and Management Officer.*

[FR Doc. 79-448 Filed 1-4-79; 8:45 am]

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[6325-01-M]

## OFFICE OF PERSONNEL MANAGEMENT

### ESTABLISHMENT

**Establishment, Location, Organization and Functions, Regional Offices, and Internal Administrative Instructions**

Reorganization Plan No. 2 of 1978 and Pub. L. 95-454 (5 U.S.C. 1103) created the Office of Personnel Management vesting in it most of the functions of the U.S. Civil Service Commission, with some changes and additions.

Notice is hereby given that:

1. The Office of Personnel Management (OPM) will be located at 1900 E Street, N.W., Washington, D.C. 20415, Phone, 202-655-4000.

2. The OPM will have the organization and functions shown in the accompanying chart.

3. The OPM will have the following regional offices (areas included within each region are the standard federal regions shown in Appendix D, U.S. Government Manual):

Atlanta Region, 1340 Spring Street, NW, Atlanta, GA 30309.
Boston Region, John W. McCormack Post Office & Courthouse Bldg., Boston, MA 02109.
Chicago Region, John C. Kluczynski Federal Bldg., 29th Floor, 230 South Dearborn Street, Chicago, IL 60604.
Dallas Region, 1100 Commerce Street, Dallas, TX 75242.
Denver Region, Bldg. 20, Denver Federal Ctr., Denver, CO 80225.
New York Region, New Federal Building, 26 Federal Plaza, New York, NY 10007.
Philadelphia Region, William J. Green, Jr., Federal Building, 600 Arch St., Philadelphia, PA 19106.
St. Louis Region, 1256 Federal Building, 1520 Market Street, St. Louis, MO 63103.
San Francisco Region, 525 Market Street, San Francisco, CA 94105.
Seattle Region, Federal Building, 26th Floor, 915 Second Avenue, Seattle, WA 98174.

4. Effective January 1, 1979, the OPM hereby adopts and ratifies, until modified or otherwise abrogated, the former U.S. Civil Service Commission's internal operating instructions and procedures. These will be in effect until OPM publishes new directives of its own, and include the: Administrative Manual; Personnel Manual; regulations on employee codes of conduct; regulations on control of funds; designations of contracting, certifying and appointing officers, and of persons authorized to administer oaths; and all other published internal operating instructions which govern and guide daily business transactions.

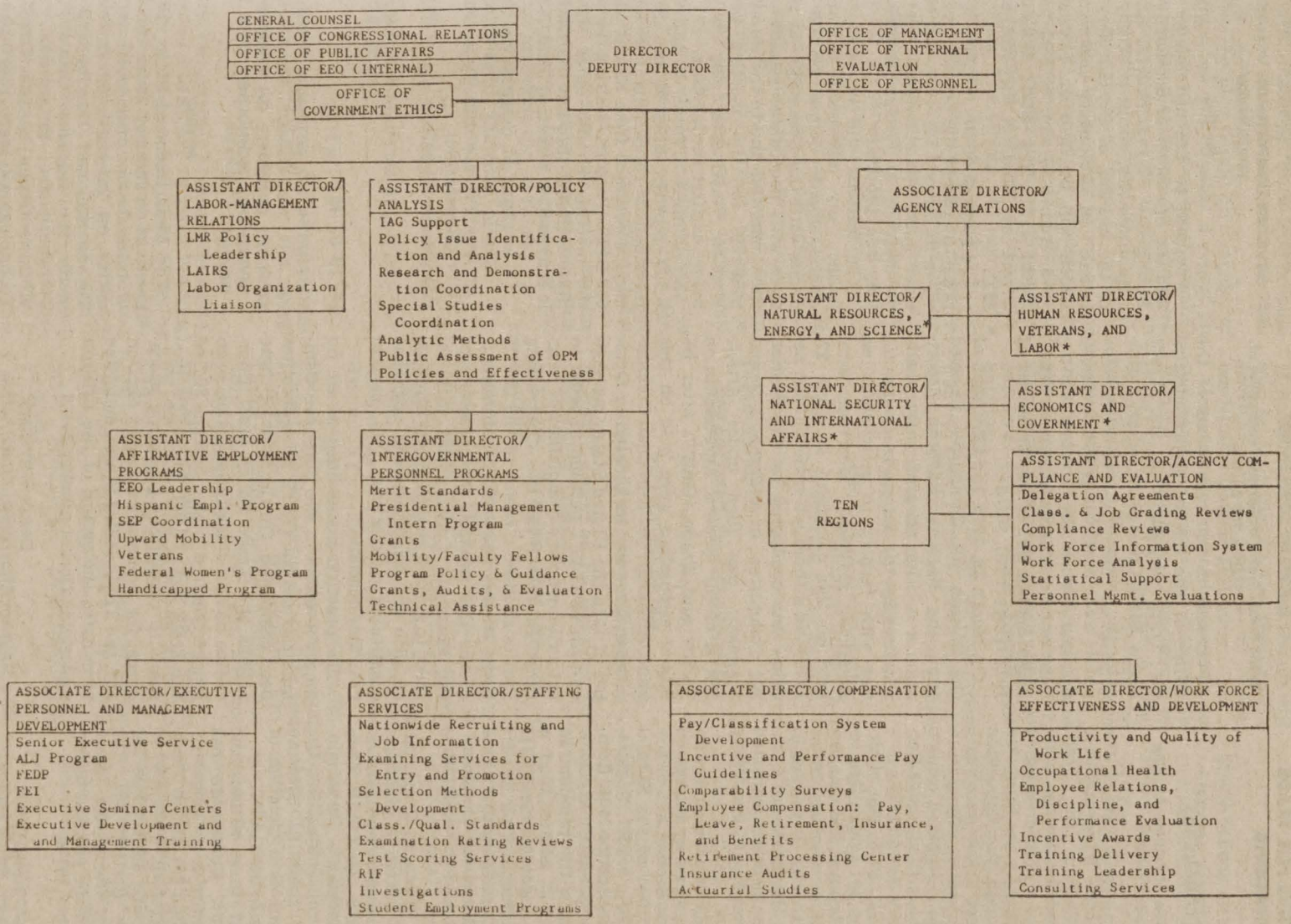
5. All contracts in force and previously administered by the U.S. Civil Service Commission will, effective January 1, 1979, be administered by the Office of Personnel Management.

FOR FURTHER INFORMATION CONTACT:

Joseph P. Reid, 202-632-4596.

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
*Special Assistant to the Director.*

OFFICE OF PERSONNEL MANAGEMENT




*Include agency officers and consultants.

[FR Doc. 79-557 Filed 1-4-79; 8:45 am]

[3190-01-M]

## OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 301-4]

### EUROPEAN COMMUNITIES

#### Termination of Review of Petition Alleging Unfair Trade Practices

Pursuant to the regulations of the Office of the Special Representative for Trade Negotiations, the Trade Policy Staff Committee hereby terminates the review of a petition alleging unfair trade practices by the European Communities through the imposition of minimum import prices on tomato concentrates and a system of import licensing for certain designated canned fruits and vegetables, filed under Section 301 of the Trade Act of 1974.

On September 22, 1975, the chairman of the Section 301 Committee received from the National Canners Association a petition alleging unfair trade practices with respect to certain import policies of the European Communities (EC). The petition requested relief under Section 301 of the Trade Act.

Following a public hearing and presentation of public views by interested parties pursuant to Section 301 of the Trade Act, the Office of the Special Representative for Trade Negotiations, through the Section 301 Committee, conducted an extensive review of the allegations in the petition. In addition, the United States filed a formal complaint under Article XXIII of the General Agreement on Tariffs and Trade (GATT) alleging that these practices of the European Communities were in violation of the obligations of the EC under the GATT.

In mid-1978 the European Communities abolished the system of minimum import prices on tomato concentrates. In the fall of 1978 the GATT Contracting Parties adopted a report supporting the U.S. contention that the minimum import price, as used on tomato concentrate, is a violation of EC obligations under the GATT.

On the basis of these actions the Trade Policy Staff Committee has concluded that action is no longer required under Section 301 of the Trade Act of 1974. Therefore, pursuant to regulations governing procedures for complaints under Section 301, the Trade Policy Staff Committee terminates the review of the petition underlying Docket number 301-4.

DORIS WHITNACK,
*Acting Chairman, Trade Policy Staff Committee.*

[FR Doc. 79-451 Filed 1-3-79; 8:45 am]

[3190-01-M]

[Docket No. 301-8]

### EUROPEAN COMMUNITIES

#### Trade Policy Staff Committee, Termination of Section 301 Review

Pursuant to the regulations of the Office of the Special Representative for Trade Negotiations, the Trade Policy Staff Committee hereby terminates the review of a petition alleging unfair trade practices by the European Communities in the form of restrictions on the American soybean trade, under Section 301 of the Trade Act of 1974 (Docket No. 301-8).

On March 30, 1976, the Chairman of the Section 301 Committee received from the National Soybean Association a petition alleging unfair trade practices by the European Communities with respect to restrictions on American soybeans. Hearings were held on this complaint on June 22, 1976, and a thorough review of the petition was conducted by the Section 301 Committee. In addition, a formal complaint was filed under Article XXIII of the General Agreements on Tariffs and Trade (GATT) after bilateral discussions were held on this issue. Although the European Communities system was terminated in October of 1976 the United States proceeded with its GATT petition in order to get a ruling on the complained of practices. In mid-1978, the Contracting Parties adopted a report of the GATT panel on this issue which substantiated the U.S. position that practices of the European Communities with respect to certain requirements associated with the importation of soybeans constituted violations of certain GATT obligations.

The practices complained of are no longer in effect in the European Communities and the GATT procedure has been completed. On the basis of these actions the Trade Policy Staff Committee has concluded that action is no longer required under Section 301 of the Trade Act of 1974. Therefore, pursuant to regulations governing procedures for complaints under Section 301, the Trade Policy Staff Committee terminates the review of the petition underlying Docket number 301-8.

DORIS WHITNACK,
*Acting Chairman, Trade Policy Staff Committee.*

[FR Doc. 79-452 Filed 1-3-79; 8:45 am]

[4710-02-M]

## DEPARTMENT OF STATE

### Agency for International Development

### ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

#### Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Public Law 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on February 9, 1979, from 9:30 a.m. to 5:00 p.m., in Room 1107, New State Building, C Street at 22nd, N.W., Washington, D.C.

The purpose of the meeting is to address the role of the Committee, to develop its agenda for 1979, and to consider such other matters related to voluntarism in foreign assistance as may be appropriate.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee and to the extent time available for the meeting permits. Written statements may be filed before or after the meeting.

Mr. John A. Ulinski, Jr. will be the A.I.D. representative at the meeting. Information concerning the meeting may be obtained from him at AC 202-632-9421. Persons desiring to attend the meeting should enter the New State Building through the Diplomatic Entrance, C Street, at 22nd, N.W.

ANTHONY M. SCHWARZWALDER,
*Acting Assistant Administrator, for Private and Development Cooperation.*

DECEMBER 26, 1978.

[FR Doc. 79-406 Filed 1-4-79; 8:45 am]

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[4710-07-M]

[CM-8/143]

### ADVISORY COMMITTEE ON INTERNATIONAL INVESTMENT, TECHNOLOGY, AND DEVELOPMENT

#### Meeting

The Department of State will hold meetings on January 23 for two of the Working Groups of the Advisory Committee on International Investment, Technology, and Development (formerly the Advisory Committee on Transnational Enterprises). The Working Group on the Transfer of Technology will meet from 9:30 a.m. to 12:30 p.m. on this date in room 1406 of the State Department, 2201 C Street NW., Washington, D.C. The Working

Group on UN/OECD Investment Undertakings will meet from 2:00 p.m. to 5:00 p.m. in the same room. The meetings will be open to the public and all persons planning to attend should enter the State Department through its "C" street entrance.

The Working Group on Transfer of Technology will consider a report on the results of the October/November Negotiating Conference in Geneva on an International Code of Conduct on the Transfer of Technology. These negotiations are to be resumed in February, 1979. The Working Group on the UN/OECD Investment Undertakings will be discussing the 1979 Review of the OECD Declaration on International Investment and Multinational Enterprises. The Group will also hear a report on the January meeting of the U.N. Intergovernmental Working Group on a Code of Conduct Relating to Transnational Corporations and consider draft formulations for a code recently prepared by the U.N. Intergovernmental Group's Chairman, Sten Niklasson of Sweden.

Requests for further information on the meetings should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meetings must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of each working group will, as time permits, entertain oral comments from members of the public attending the meetings.

Dated: December 28, 1978.

RICHARD D. KAUZLARICH,
*Executive Secretary.*

[FR Doc. 79-474 Filed 1-4-79; 8:45 am]

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[4710-07-M]

[CM-8/144]

**ADVISORY COMMITTEE ON INTERNATIONAL INVESTMENT, TECHNOLOGY, AND DEVELOPMENT**

**Meeting**

The Department of State will hold a meeting on January 29 of the Working Group on Transborder Data Flows of the Advisory Committee on International Investment, Technology and Development (formerly the Advisory Committee on Transnational Enterprises). The Working Group will meet from 9:30 a.m. to 12:30 p.m. in room 1207 of the State Department, 2201 C Street, NW., Washington, D.C. The meeting will be open to the public.

The meeting will be held to consider a proposal made in the OECD to begin the drafting of international guidelines on flows of data across national borders. This drafting exercise is scheduled to begin at the OECD in March 1979. The Working Group will also be reporting on the results of a previous OECD meeting on transborder data flows in December.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the working group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: December 29, 1978.

RICHARD D. KAUZLARICH,
*Executive Secretary.*

[FR Doc. 79-475 Filed 1-4-79; 8:45 am]

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[4810-25-M]

**DEPARTMENT OF THE TREASURY**

**Office of the Secretary**

**PRIVACY ACT OF 1974**

**Proposed New System of Records**

AGENCY: Office of the Secretary, Department of Treasury.

ACTION: Proposed New System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of the Inspector General, the Treasury Department gives notice of the proposed new system of records entitled, "General Allegations and Investigative Records System", (Treasury/OS 00.190).

A new system report was filed with the Office of Management and Budget, the Speaker of the House and the President of the Senate. The Office of Management and Budget has been asked to waive the advance notice requirement.

DATES: Comments must be received on or before the proposed effective date of February 5, 1979.

ADDRESSES: Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT:

Mrs. Carol Jolliffe, Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220, 202-566-6900.

Dated: December 26, 1978.

W. J. MCDONALD,
*Acting Assistant Secretary (Administration).*

TREASURY/OS 00.190[1]

**System name:**

General Allegations and Investigative Records System—Treasury/OS

**System location:**

Office of the Inspector General, Main Treasury Building, Washington, D.C. 20220

**Categories of individuals covered by the system:**

A) Current and former employees of the Department of Treasury and such other persons whose association with current and former employees relate to the alleged violations of the Department's rules of conduct, the Civil Service merit system, or any other criminal or civil misconduct, which affects the integrity or facilities of the Department of Treasury. The names of individuals and the files in their names may be:

1) received by referral; or

2) initiated at the discretion of the Office of the Inspector General in the conduct of assigned duties.

B) Individuals who are: witnessses; complainants; confidential or non-confidential informants; suspects; defendants; parties who have been identified by the Office of the Inspector General or by other agencies; constituent units of the Department of Treasury and members of the general public in connection with the authorized functions of the Inspector General.

C) Current and former senior Treasury and bureau officials who are the subject of investigations initiated and conducted by the Office of the Inspector General.

**Category of records in the system:**

Letters, memoranda, and other documents citing complaints of alleged criminal or administrative misconduct. Investigative files which include: reports of investigations to resolve allegations of misconduct or violations of law with related exhibits, statements, affidavits or records obtained during investigations; transcripts and documentation concerning requests and approval for consensual (telephone and consensual non-telephone) monitoring; reports from or to other law enforcement bodies; prior criminal or non-criminal records of individuals as it relates to the investigations; reports of actions taken by management person-

[1] For proposed regulations regarding exemption of this system from certain requirements of the Privacy Act of 1974, see the proposed rules section of this issue of the FEDERAL REGISTER.

nel regarding misconduct and reports of legal actions resulting from violations of statutes referred to the Department of Justice for prosecution.

**Authority for maintenance of the system:**

Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 256, dated July 18, 1978.

**Routine uses:**

Routine disclosure of information contained in this system may be made to the Secretary and Deputy Secretary of the Treasury Department, to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation and to the Office of the General Counsel in connection with requests for legal advice; and to authorized investigative offices of the Treasury Deparment, constituent units or other Federal Agencies. Disclosure may be made during judicial processes. Routine disclosure may be made to the extent provided by law or regulation and as necessary to report apparent violations of law to appropriate law enforcement agencies. Routine disclosure may be made to authorized investigative offices of other Federal Agencies in connection with security procedures. Disclosures to those officers and employees of the Department of Treasury who have a need for the records such as those disclosures required for the administration of the Freedom of Information Act (5 U.S.C. 552) as amended. For additional routine uses see the Appendix entitled "Department of the Treasury Appendix Additional Routine Uses".

**Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:**

**Storage:**

Paper records in file jackets maintained in locked safes.

**Retrievability:**

By name and case number. Access to the physical files containing records is by case number obtained from alphabetized card indices.

**Safeguards:**

Records are maintained in locked safes and all access doors are locked when office is vacant. The records are available to personnel in the Office of the Inspector General on a need-to-know basis, each of whom have appropriate security clearances.

**Retention and disposal:**

Investigative files are stored on-site for 3 years and indices to those files are stored on-site for 5 years. Upon expiration of their respective retention periods the investigative files and their indices are transferred to the Federal Records Center for retention and in most instances destroyed by burning, maceration, or pulping when 20 years old.

**System manager and address:**

Inspector General, Main Treasury Building, Washington, D.C. 20220.

**Notification procedure:**

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

**Records access procedures:**

This system of records may not be accessed under the Privacy Act for purposes of inspection or for the contest of content of records.

**Contesting record procedures:**

See access above.

**Records source categories:**

This system contains investigatory material whose sources need not be reported.

[FR Doc. 79-640 Filed 1-4-79; 8:45 am]

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[7035-01-M]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 1]

### ASSIGNMENT OF HEARINGS

JANUARY 2, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 144640 (Sub-No. 2F), Agricultural Services Association, Inc., now assigned January 18, 1979, at Louisville, Kentucky is postponed indefinitely.

No. MC 144640F, Agricultural Services Association, Inc., now assigned January 9, 1979, at New York, N.Y. is postponed indefinitely.

No. MC 66746 (Sub-No. 21F), Shippers Express, Inc., now assigned January 16, 1979, at Jackson, Mississippi is postponed indefinitely.

No. MC 114969 (Sub-No. 77F), Propane Transport, Inc., now assigned January 11, 1979, at Columbus, Ohio is postponed Indefinitely.

No. MC 20783 (Sub-No. 111F), Tompkins Motor Lines Inc., now assigned January 9, 1979, at Tampa, Florida is canceled and reassigned for January 9, 1979, (4 days), at Orlando, Florida at the Holiday Inn, 6515 International Drive.

No. MC 116077 (Sub-No. 395F), DSI Transports, Inc., now assigned February 14, 1979, at New Orleans, La. is canceled and reassigned for Houston, Texas, at the Holiday Inn—Down—801 Calhoun Street, February 14, 1979 (3 days).

No. MC 1977 (Sub-No. 28F), Northwest Transport Service, Inc., now assigned January 9, 1979, at Denver, Colorado is canceled and reassigned to January 9, 1979 (4 days), at the Little America, 500 South Main Street, Salt Lake, Utah, continued to January 15, 1979 (1 day), at the Rodeway Inn, 29th and Chinden Boulevard, Boise Idaho and January 16, 1979 (4 days), at the Holiday Inn, 1350 Blue Lakes Boulevard North, Twin Falls, Idaho.

No. MC 108119 (Sub-No. 106F), E. L. Murphy Trucking Company now being assigned January 11, 1979 (2 days), at St. Paul, Minnesota, in Court Room No. 984, Federal Building, 316 North Robert St.

No. MC 114457 (Sub-No. 445), Dart Transit Company, now being assigned January 15, 1979 (5 days), at St. Paul, Minnesota, Court Room No. 984, Federal Building, 316 North Robert St.

No. MC 109397 (Sub-No. 405F), Tri-State Motor Transit Co., a Corporation, now assigned for hearing on January 25, 1979, at Atlanta, Georgia and will be held in Conference Room 102E, Peachtree Seventh Building.

No. MC 138157 (Sub-No. 65F), Southwest Equipment Rental, Inc., DBA Southwest Motor Freight, now assigned for hearing on January 24, 1979, at Atlanta, Georgia and will be held in Room 556, Federal Building.

No. MC 135078 (Sub-No. 23F), American Transport, Inc., now assigned for hearing on January 23, 1979, at Atlanta, Georgia and will be held in Room 556, Federal Building.

No. MC 114457 (Sub-No. 381F), Dart Transit Company, a Corporation, now assigned for hearing on January 10, 1979, at Chicago, Illinois and will be held in Room 3855A.

No. MC-129704 (Sub-No. 2F), Clarence B. Blankenship, DBA Troy, Cab Co., now being assigned for hearing on January 16, 1979, (3 days), at Detroit, Michigan and will be held in Pontchartrain, Hotel, Plaza B&C, 2 Washington Boulevard.

No. MC-115495 (Sub-No. 37F), United Parcel Service, Inc., now being assigned for Prehearing Conference on January 17, 1979, at the Office of Interstate Commerce Commission, Washington, DC.

No. MC 143884 (Sub-No. 2), Personilized Agent Service, Inc., now assigned for hearing on January 29, 1979, at Atlanta, GA., and will be held in Conference Room 102E, Peachtree Seventh Bldg.

No. MC-144506F, Koller Petroleum Products, Inc., now assigned for hearing on January 10, 1979, at Madison Wisconsin, and will be held in C.I. Conference Room 125, North Walnut Street.

No. MC-107012 (Sub-No. 274F), North American Van Lines, Inc., now being assigned for hearing on February 7, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-78228 (Sub-No. 88F), J. Miller Express, Inc., now being assigned for hearing on February 8, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC-118159 (Sub-No. 280F), National Refrigerated Transport, Inc., now being assigned for hearing on February 9, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

H.G. HOME, Jr.,
*Secretary.*

[FR Doc. 79-488 Filed 1-4-79; 8:45 am]

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[7035-01-M]

[Docket No. AB-36 (Sub-No. 9F)]

## OREGON SHORT LINE RAILROAD CO.

### Abandonment and Discontinuance of Service by Union Pacific Railroad Co. Near Rubicon and New Meadows in Adams County, ID; Notice of Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided December 18, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the physical abandonment by the Oregon Short Line Railroad Company and discontinuance of service by the Union Pacific Company over a portion of the New Meadows Branch extending from railroad milepost 84.52 near Rubicon, ID, to the end of the line at railroad milepost 89.91 at New Meadows, ID, a distance of 5.39 miles in Adams County, ID. A certificate of public convenience and necessity permitting abandonment and discontinuance of service was issued to the Oregon Short Line Railroad Company and the Union Pacific Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective February 20, 1979.

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

[FR Doc. 79-490 Filed 1-4-79; 8:45 am]

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[7035-01-M]

## SOUTHERN CRESCENT

### Notice Regarding Possible Discontinuance of Operations by Southern Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice to the Public.

SUMMARY: This notice seeks comments on whether and on what conditions, if any, the Commission should enter an order permitting Southern Railway Company to discontinue its operations of the "Southern Crescent" upon Amtrak's assuming responsibilities for continuing the service.

EFFECTIVE DATE: January 22, 1979.

FOR FURTHER INFORMATION CONTACT:

G. Marvin Bober, Acting Deputy Director, Section of Finance, I.C.C.—Room 5417, Washington, D.C. 20423, 202-275-7564.

SUPPLEMENTARY INFORMATION: Southern filed a petition seeking reopening and reconsideration of our earlier decision in Finance Docket No. 28697, *Southern Railway Company—Discontinuance of trains Nos. 1 and 2 the "Southern Crescent" Between Washington, D.C. and New Orleans, La.*, printed at 354 I.C.C. 630 (1978) which denied its application to discontinue operation of the above-described passenger trains. Petitioner states that on December 13, 1978, the Board of Directors of the National Railroad Passenger Corporation (Amtrak) approved an agreement with Southern for Amtrak to take over operation of the "Southern Crescent". The agreement provides for Amtrak to institute the service on February 1, 1979, or the day after Southern is authorized to discontinue the service, whichever is later.

All parties wishing to comment on whether and on what conditions, if any, the Commission should enter an order permitting Southern to discontinue its operation of the "Southern Crescent" should do so by January 22, 1979.

An original and 10 copies should be mailed to the Commission at the aforementioned address.

A copy should also be filed on Southern Railway Company, P.O. Box 1808, Washington, D.C. 20013, and its counsel, Frederick G. Berner, Jr., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006, William Erkelenz, National Railroad Passenger Corp., 400 North Capitol Street NW., Washington, D.C. 20001, John Heffner, Suite 1212, 425 13th Street NW., Washington, D.C. 20004, John O'B. Clarke, Jr., Suite 210, 1050 17th Street NW., Washington, D.C. 20036, and all other parties of record.

H. G. HOMME, Jr.,
*Secretary.*

[FR Doc. 79-489 Filed 1-4-79; 8:45 am]

# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS



[6355-01-M]

1

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: January 10, 1979, 10 a.m.

LOCATION: Room 456 Westwood Towers Building, 5401 Westbard Ave., Bethesda, Maryland.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

AGENDA

*Closed to the public*

1. *Briefing on cellulose insulation (515c) enforcement.* The staff will brief the Commission on issues related to enforcement of the Cellulose Insulation (515c) Regulation.

2. *Briefing on TRIS.* The staff will discuss the status of enforcement activities related to TRIS-treated garments.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207.

[S-16-79 Filed 1-3-79; 2:51 pm]

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[6355-01-M]

2

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: January 11, 1979, 9:30 a.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Open.

MATTERS TO BE CONSIDERED:

AGENDA

*Open to the public*

1. *Recommendation to accept corrective action plan: Carrier Corp., air conditioner, ID 78-101.* The staff has recommended that the Commission accept and monitor the corrective action plan which Carrier has implemented to address a possible defect in certain 6,000 BTU size room air conditioners.

2. *Recommendation to accept corrective action plans: Market Research Imports (ID 78-36), LeGran Imports (ID 78-43), Beck Electric (ID 78-61), Hayashi International Corp. (ID 78-70)—Christmas light bulbs.* The staff has recommended that the Commission accept and monitor the corrective action plans which each of the subject companies have implemented to address a possible defect in certain imported Christmas light bulbs.

3. *Recommendation to accept corrective action plan: Bombardier Limited, Snowmobile, ID 78-84.* The staff recommended that the Commission accept and monitor the corrective action plan which Bombardier has implemented to address a possible substantial product defect in its 1978 Citation brand Ski-Doo snowmobiles.

4. *Special labeling concerning the cardiotoxicity of methylene chloride (Petition HP 76-8).* On January 5, 1978 the Commission voted to grant a petition (HP 76-8) from the Empire State Consumer Association requesting special labeling under the FHSA for paint stripers containing methylene chloride. Staff now raises the issue of whether the Commission should reconsider this decision in light of the lack of direct evidence of the alleged risk of injury.

5. *Petition HP 78-6 to amend fireworks regulation.* The Commission will consider a petition from the American Pyrotechnics Association to make seven amendments to the Commission's regulation on firework devices. The amendments concern fuse side ignition, chlorate fuse, side ignition of smoke devices, fuse burning time, base to height ratio, aerial items, and external flame on smoke devices.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207.

[S-17-79 Filed 1-3-79; 2:51 pm]

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[6570-06-M]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 9, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Technical amendments to Affirmative Action Guidelines.
2. Report on Commission operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued January 2, 1979.

[S-12-79 Filed 1-3-79; 11:33 am]

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[6714-01-M]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m. on Wednesday, January 10, 1979.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.
Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Strasburger & Price, Dallas, Texas, in connection with the receivership of

United States National Bank, San Diego, California.

Casey, Lane & Mittendorf, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Taback & Hyams, Jericho, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Meredith, Donnell & Edmonds, Corpus Christi, Texas, in connection with the liquidation of Northeast Bank of Houston, Houston, Texas.

Recommendations with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of amendments to Part 304 of the Corporation's rules and regulations, entitled "Forms, Instructions, and Reports," with respect to applications for insurance by "phantom" banks.

Acquisition of additional space for the Division of Bank Supervision Training Center.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director of the Division of Liquidation detailing all disbursements in excess of $10,000 and all sales of real estate properties, during the period October 16, 1978-December 16, 1978, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-18-79 Filed 1-3-79; 2:51 pm]

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[6714-01-M]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m. on Wednesday, January 10, 1979.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Maya Bank, a proposed new bank to be located on the southwest corner of the intersection of Palomar Street and Industrial Boulevard, Chula Vista, California, for Federal deposit insurance.

Landmark Bank, a proposed new bank to be located at 441 West Whittier Boulevard, La Habra, California, for Federal deposit insurance.

Bank of Palm Springs, a proposed new bank to be located at the intersection of Taquitz-MaCallum and Alverado Streets, Palm Springs, California, for Federal deposit insurance.

Citizens Fidelity Bank, a proposed new bank to be located at 1000 Volunteer Parkway, Bristol, Tennessee, for Federal deposit insurance.

Equitable Bank, a proposed new bank to be located at the intersection of Preston Road and Campbell Road, Dallas, Texas, for Federal deposit insurance.

Mercantile Bank of Fort Worth, a proposed new bank to be located at 2550 Mecham Boulevard, Fort Worth, Texas, for Federal deposit insurance.

Wasatch Bank of Lehi, a proposed new bank to be located at 620 East Main Street, Lehi, Utah, for Federal deposit insurance.

Application for consent to establish a branch:

The Greater New York Savings Bank, New York, New York, for consent to establish a branch at 1330-1332 First Avenue, New York, New York.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,726-SR—Sharpstown State Bank, Houston, Texas.

Case No. 43,745-L—International City Bank & Trust Company, New Orleans, Louisiana

Case No. 43,747-L—Northeast Bank of Houston, Houston, Texas.

Case No. 43,750-L—Interntional City Bank & Trust Company, New Orleans, Louisiana.

Case No. 43,756-L—Franklin National Bank, New York, New York.

Case No. 43,757-L—Banco Credito y Adhorro Ponceno, Ponce, Puerto Rico.

Case No. 43,759-L—Franklin National Bank, New York, New York.

Case No. 43,760-L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Case No. 43,761-L—American Bank & Trust, Orangeburg, South Carolina.

Case No. 43,762-SR—Citizens State Bank, Carrizo Springs, Texas.

Case No. 43,764-L—The Hamilton Bank & Trust Company, Atlanta, Georgia.

Case No. 43,769-L—Wilcox County Bank, Camden, Alabama.

Memorandum re: American Bank & Trust Company, New York, New York.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Grievance Officers' reports and recommendations with respect to the formal grievances of Corporation employees.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-19-79 Filed 1-3-79; 2:51 pm]

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[6715-01-M]

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, January 10, 1979 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audits and Audit Policy. Compliance. Personnel.

DATE AND TIME: Thursday, January 11, 1979 at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory Opinions: AO 1978-89, AO 1978-97, AO 1978-98, AO 1978-99, and AO 1978-100.
Draft regulations for Presidential primary matching fund, TITLE 11, Code of Federal Regulations, Subchapter C.
Budget Execution Report.
Appropriations and budget.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

Portions of the meeting closed to the public:

Any matters not concluded on January 10, 1979.

PERSONS TO CONTACT FOR INFORMATION:

Mr. Fred S. Eiland, Public Information Officer, telephone 202-523-4065.

LENA L. STAFFORD,
*Acting Secretary*
*to the Commission.*

[S-20-79 Filed 1-3-79; 3:34 pm]

[6730-01-M]

7

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: December 29, 1978; 43 FR 61083.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., January 4, 1979.

CHANGES IN THE MEETING: Addition of the following items to the closed session:

3. Internal procedures for drafting and approving Commission reports and orders.
4. Letter of Sea-Land Service, Inc., dated December 28, 1978, concerning settlement agreement.

[S-13-79 Filed 1-3-79; 11:41 am]

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[6730-01-M]

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., January 11, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 10285: Rate agreement between the Straits/New York Conference and four mini-landbridge carriers—Request for hearing.
2. (1) Proposed SS *United States* Escrow Agreement and (2) Proposed "Mariners Club Letter" and "Mariner Questionnaire" of United States Cruises, Inc.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-14-79 Filed 1-3-79; 11:41 am]

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[6735-01-M]

9

JANUARY 2, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., January 9, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following proceedings:

1. Staff briefing on issue of independent reviewability of citations.
2. *Peabody Coal Co.*, Docket No. BARB 77-245-P (civil penalty proceeding).

CONTACT PERSON FOR MORE INFORMATION:

Donald Terry, 202-653-5644.

[S-6-79 Filed 1-3-79; 11:33 am]

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[6735-01-M]

10

JANUARY 2, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., January 4, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following agenda item:

1. *MSHA* v. *Kenny Richardson*, Docket No. BARB 78-600-P. It was determined by unanimous vote of all Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION:

Donald Terry, 202-653-5644.

[S-15-79 Filed 1-3-79; 2:51 pm]

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[6210-01-M]

11

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, January 10, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed Statement of Customers' Rights to implement a section of Title XI of the Financial Institutions Regulatory and Interest Rate Control Act.
2. Proposal to implement Executive Order 12044, relating to Improving Government Regulations.
3. Board's regulatory improvement program: review of Regulation S (Bank Service Arrangements).
4. Proposed report to the Congress on remote disbursement practices of commercial banks and a related proposed public statement.
5. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling 202-452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

THEODORE E. ALLISON.

JANUARY 3, 1979.

[S-11-79 Filed 1-3-79; 11:33 am]

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[7020-02-M]

12

[USITC SE-79-1]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, January 11, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): a. Finished precision resistors (Docket No. 550). b. Bicycle tires and tubes from the Republic of Korea (Docket No. 551).
5. Centrifugal trash pumps (Inv. 337-TA-43)—Vote.
6. Tantalum electrolytic fixed capacitors from Japan (Inv. AA1921-159)—Consideration of staff memorandum GC-H-366.
8. Any items left over from previous agenda.
9. Consideration of the report in Investigation 332-87 (U.S. Western Steel Market).

Portions closed to the public:

7. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-21-79 Filed 1-3-79; 3:57 pm]

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[7555-01-M]

13

NATIONAL SCIENCE BOARD.

DATE AND TIME: January 18, 1979, 1 p.m., open session. January 19, 1979, 9 a.m., closed session.

PLACE: Room 540, 1800 G Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION:

1. Program Review—Science Education.
2. Minutes—Open Session—202nd Meeting.
3. Chairman's Report.
4. Director's Report:
a. Report on Grant & Contract Activity—11/16/78–1/17/79.
b. Organizational and Staff Changes.
c. Congressional and Legislative Matters (including Antarctic Conservation Act of 1978).
d. NSF Budget for Fiscal Years 1979 and 1980.
e. Regional Instrumentation Facility Program.
f. Advisory Council Task Groups.
5. Board Committees—Reports on Meetings:
a. Executive Committee.
b. Planning and Policy Committee.
c. Programs Committee.
d. Committee on Budget.
e. Committee on Eleventh NSB Report.
f. Committee on Minorities and Women in Science.
g. Committee on Role of NSF in Basic Research.
h. Committee on Science and Society.
i. Ad Hoc Committee on Deep Sea and Ocean Margin Drilling Programs.
6. NSF Advisory Groups and Annual Review:
a. Reports on Meetings.
b. Board Representation at Future Events.
7. Grants, Contracts, and Programs.
8. Proposed Changes in "Criteria" Document—Guidelines for Selection of Projects.
9. Proposed Materials Science Study.
10. Other Business.
11. Next Meetings:
a. National Science Board—February 15-16, 1979.
b. NSB Committees.
c. Program Review.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

A. Minutes—Closed Session—202nd Meeting.
B. Grants, Contracts, and Programs.
C. NSF Budgets for Fiscal Year 1980 and Subsequent Years.
D. NSB Annual Reports.
E. Report on NSB Nominees.
F. Appointment of members to Alan T. Waterman Award Committee.

CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-8-79 Filed 1-3-79; 11:33 am]

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[7600-01-M]

14

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m., January 11, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Patricia Bausell, 202-634-4015.

Dated: January 2, 1979.

[S-7-79 Filed 1-3-79; 11:33 am]

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[7910-01-M]

15

THE RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 61084, December 29, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Wednesday, January 3, 1979.

CHANGE IN MEETING: Meeting is cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 2, 1979.

HARRY R. VAN CLEVE,
*Acting Chairman.*

[S-9-79 Filed 1-3-79; 11:33 am]

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[7910-01-M]

16

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, January 9, 1979; 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 observations. Matter 4 and 5 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held December 19, 1979; and other Board meetings, if any.

2. Report on partial year filings and applications for commercial exemption.

3. Proposed Opinion: Stelma Inc., successor-in-interest to a 1960 Delaware Corporation of the same name, fiscal years ended March 31, 1968 and 1969 and May 8, 1969.

4. Approval of agenda for meeting to be held January 23, 1979.

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: January 2, 1979.

HARRY R. VAN CLEVE,
*Acting Chairman.*

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PART II


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# DEPARTMENT OF LABOR

## Mine Safety and Health Administration

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# MINE RESCUE TEAMS

[4510-43-M]

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

[30 CFR Part 49]

### MINE RESCUE TEAMS

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Federal Mine Safety and Health Act of 1977 (Act), Section 115(e), requires the Secretary of Labor to publish proposed regulations which provide that mine rescue teams shall be available for rescue and recovery work to each underground coal or other mine in the event of an emergency. The Act provides that the costs of making advance arrangements for such teams shall be borne by the operator. The proposed rule requires the operator of each underground mine to have available at least two mine rescue teams and establishes the requirements for such teams. Interested persons may participate by submitting written comments, suggestions and objections to the address provided below.

DATES: Comments must be received on or before March 5, 1979.

ADDRESSES: Send comments to the Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

#### I. Background

The Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, amended the Federal Coal Mine Health and Safety Act of 1969 (Coal Act), Pub. L. 91-173, and repealed the Metal and Nonmetallic Mine Safety Act, Pub. L. 89-577. The Federal Mine Safety and Health Act of 1977 (Act), Pub. L. 91-173 as amended by Pub. L. 95-164, applies to coal, metal and nonmetal mines.

Section 115(e) of the Act provides: "Within 180 days after the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the Secretary shall publish proposed regulations which shall provide that mine rescue teams shall be available for rescue and recovery work to each underground coal or other mine in the event of an emergency. The costs of making advance arrangements for such teams shall be borne by the operator of each such mine."

In accordance with Executive Order 12044 concerning improvement of government regulations and Department of Labor proposed guidelines implementing the Executive Order (43 FR 22915), persons known to be interested were contacted and given an opportunity to submit informal comments on a draft of the proposed rule prior to its publication in the Federal Register. The comments received have been given full consideration. As a whole, the comments reflect a desire for flexibility in the proposed rule particularly with respect to the equipment and training requirements, and several of the comments raised questions which merit further consideration. The most significant comments received are referred to in the following discussion of the proposed rule, together with considerations which prompted the proposed requirements. However, pending the benefit of full public comment, no changes in the basic approach of the MSHA draft have been made in the proposed rule.

#### II. Discussion of Proposed Rule

Under the proposed rule, each operator of an underground mine would be required to have available for each mine at least two mine rescue teams composed of five members and two alternates, unless an alternate mine rescue plan is approved by the Mine Safety and Health Administration (MSHA) District Manager.

One of the informal comments submitted suggested that one rescue team for each mine would be sufficient while another commenter considered three rescue teams appropriate in some circumstances. The proposed rule has retained the requirement that each operator establish or secure the services of at least two mine rescue teams so that a backup rescue team will be available in the event additional rescue assistance is needed. For instance, under severe mine rescue conditions or in the event prolonged rescue and recovery operations are required, alternating mine rescue teams would be necessary. The immediate services of two mine rescue teams would also be needed in the event of a major mine disaster. The proposed requirement also recognizes that a mine rescue team may already be involved in rescue operations or other activities which would jeopardize timely response by the team. This risk is significantly reduced by the proposed requirement of two mine rescue teams. However, at this point in the rulemaking process, MSHA is not convinced, based upon its experience, that it is necessary to require the availability of three mine rescue teams at any mine.

Notwithstanding the increased effectiveness and reliability of mine rescue capability provided by the proposed two team requirement, MSHA recognizes that under some circumstances meeting the two team requirement would be impracticable. One of the comments received provided an example, indicating that within a 60 minute area around the mine there was not a sufficient number of qualified persons to establish two mine rescue teams. Under these and similar circumstances, the proposed rule would require that the operator submit a detailed alternate mine rescue plan to the District Manager for approval. As part of such alternate plan for ensuring mine rescue capability it would be necessary for the operator to state the reasons why mine rescue teams could not be made available in accordance with the proposed rule, together with the number of miners employed at the mine, the distance from the mine of established mine rescue teams and stations and the availability of State mine rescue teams.

Under the proposed rule, an alternative plan may only be considered if "the mine is small and in a remote location." Several comments suggested that the criteria should be expanded to include other conditions or situations which might merit the use of an alternative to the mine rescue team requirements of these proposed rules. MSHA will be considering the appropriateness of this suggestion during the rulemaking process and encourages comments in this regard.

To make mine rescue teams available to each underground mine, the proposed rule would require each operator to establish and equip its own rescue teams or to enter into a written contractual or cooperative agreement which ensures the availability of mine rescue teams, unless an alternate mine rescue plan is approved by the District Manager. In any event, each operator would be required to give the MSHA District Manager in the district where the mine is located written notice of how the operator is securing availability of mine rescue teams. Where applicable, the operator would be required to submit a copy of any contractual or cooperative agreement for the services of a mine rescue team.

Several comments received emphasized the tradition and importance of voluntary mine rescue and recovery work and questioned whether rescue team members could be required to respond to an emergency. Under the proposed rule, an operator electing to have mine rescue teams available by written contractual or cooperative agreement is required only to enter into a contract or cooperative agreement for the availability of such teams. The proposed rule would not bind mine rescue team members or alternates to respond. However, it is expected that if the lives of miners or

other persons were threatened, any mine rescue team available would respond without hesitation.

Proposed § 49.3 prescribes minimum equipment requirements for mine rescue teams. These equipment requirements are based on MSHA's experience in mine safety and rescue and include equipment commonly used by established mine rescue teams. MSHA considers the proposed requirements to be the minimum rescue equipment necessary for effective mine rescue teams. The proposed equipment requirements for each mine rescue team are breathing apparatus, permissible cap lamps, self rescuers, a portable stretcher and blanket, a first aid kit and a tool bag. The proposed rule would also establish minimum equipment requirements for mine rescue stations. The proposed rule would require mine rescue stations to be equipped with one oxygen pump, suitable for use with the type of breathing apparatus used by the rescue teams; a portable supply of air, oxygen or chemicals, as applicable to the breathing apparatus used; a supply of spare parts for such breathing apparatus; a portable communication system and one self-contained oxygen resuscitator. Each rescue station would also be required to be equipped with two gas detectors for each of five potentially hazardous gases identified in the regulation. This proposed requirement would be satisfied by two individual detectors for each of the five gases or two multifunction detectors able to detect each of the five gases. In addition, it is proposed that rescue stations be equipped with one methane detector able to measure methane in any concentration up to 100 percent and two oxygen indicators or flame safety lamps. The proposed rule would also require that readily available conventional ground transportation be maintained for mine rescue teams. The proposed rule would not preclude the use of other faster means of transportation when responding to an emergency, however, the required ground transportation must be maintained available.

The proposed mine rescue team equipment requirements are slightly changed from the draft of the proposed rule. No changes in the equipment proposed have been made. However, the comments received indicated that unnecessary duplication of equipment could result.

For the proposed rule to effectively ensure availability of mine rescue teams to all underground mines, it is necessary that each mine rescue team be independently able to respond to a mine emergency. To accomplish this purpose, it is proposed that each rescue team be provided its own breathing apparatus, cap lamps and other equipment essential to independent effective mine rescue and recovery work. However, the ability to independently respond to an emergency is not contingent upon each mine rescue team being provided, for example, its own oxygen pump, or spare breathing apparatus parts or other equipment and accessories which reasonably may be shared between two rescue teams at a single mine rescue station. Accordingly, under the proposed rule each mine rescue team would be provided certain essential rescue equipment, while other equipment and accessories would be required to be available to rescue teams at the mine rescue station. Equipment and accessories shared between rescue teams must also be made available to both teams for training.

Commenters also asked whether mine rescue teams could be maintained and trained by the operator in accordance with the draft proposal, but equipment for such teams be provided by contractual arrangement with a mine rescue station. The proposed rule is intended to be sufficiently flexible to meet varying needs and would not prohibit such a method of providing rescue teams with the necessary equipment, so long as the availability of the rescue teams would not be hindered. Another comment addressing rescue team equipment questioned whether the proposed rule made allowance for use of improved and new equipment. The proposed rule only establishes the minimum equipment to be provided rescue teams. Improved equipment and alternate new equipment is anticipated and accounted for in the proposed rule.

The proposed rule would also govern the maintenance of mine rescue equipment. Proposed § 49.4 would require inspection and testing of breathing apparatus at intervals not exceeding 30 days by a person trained in the use and care of the breathing apparatus in accordance with manufacturer's recommendations to ensure reliability. A record of such inspections would be required to be maintained at the mine rescue station for a period of two years.

Under the proposed rule, mine rescue team members and alternates would be required to meet minimum experience, physical and training requirements. MSHA considers the proposed requirements to be essential for the protection of mine rescue team members, alternates and miners during rescue and recovery work.

To be eligible to serve on a mine rescue team, a total of one year or more underground mining experience within the preceding three years would be required. Miners stationed on the surface, but whose duties have required regular underground work would be considered employed in an underground mine.

The proposed physical requirements would be met by each team member and alternate annually passing a physical examination and obtaining the examining physician's certification that the member or alternate is in excellent physical condition and fit to perform mine rescue and recovery work for extended periods under strenuous conditions, including use of a self-contained oxygen breathing mine rescue apparatus. It is proposed that MSHA provide a physician's examination form to be completed by the examining physician and that a record of such completed form be maintained for at least two years at the mine rescue station.

The proposed physician's examination form would require the examining physician to conduct a careful review of medical history, rigorous physical examination and prescribed laboratory tests. The proposed laboratory test requirements would include a complete blood count, urinalysis, EKG and spirometry which provides forced vital capacity, 1 second forced expiratory volume and the maximum voluntary ventilation.

The proposed rule also identifies certain physical conditions which would disqualify a candidate from mine rescue team service. The conditions identified are those which could make mine rescue and recovery work unduly dangerous for the individual to undertake and could expose others to added risk under emergency conditions.

The proposed minumum standards for visual acuity and hearing would each be required to be met without the assistance of glasses or contact lenses, or a hearing aid. In addition, MSHA is considering whether the use of these devices by rescue team members and alternates presents potential hazards and should therefore be prohibited during rescue and recovery operations.

At this time, MSHA believes that wearing glasses together with approved breathing apparatus does not present a hazard. However, there is evidence that contact lenses may become lodged above the eye due to pressure in the facepiece of approved breathing apparatus. This could be harmful to the wearer and also pose a hazard to other persons under emergency conditions. Hearing aids may also present potential hazards. Hearing aids are battery operated and may therefore be dangerous in certain atmospheres. A hearing aid may also be dislodged under emergency conditions, creating hazards for the wearer and others. MSHA is soliciting comments concerning potential hazards with the use of glasses, contact lenses and hear-

ing aids by rescue team members and alternates.

Prior to serving on a mine rescue team, each rescue team member and alternate would also be required by the proposed rule to complete several courses of training approved by the Office of Education and Training, MSHA. The proposed training requirements include a 20-hour initial course of instruction in the use, care and maintenance of the type of breathing apparatus to be used by the rescue team. If auxiliary breathing equipment is provided, an additional 10-hour course of instruction in the use, care and capabilities of the auxiliary equipment would be required. If the type of breathing apparatus is changed, an additional four hours of training with the different breathing apparatus would be required. Upon completion of initial training, each team member and alternate would be required to complete a 20-hour course of instruction in advanced mine rescue procedures. It is also proposed that each team member and alternate receive basic training approved by the Office of Education and Training, MSHA, in first aid and cardiopulmonary resuscitation, complemented by approved annual refresher courses. In addition, each team member and alternate would be required to be trained and completely familiar with the ventilation, escape routes and refuge chambers of each mine served by the rescue team.

Commenters raised questions concerning the amount and type of instruction required under the proposed rule. The proposed requirements reflect the importance of complete knowledge of mine rescue equipment and procedures under emergency conditions. In view of the hazardous and diverse nature of mine rescue and recovery work, no changes in the amount of instruction have been made in the proposed rule. Although it may be possible to permit a more flexible approach, the comments on the draft proposal do not provide a sufficient basis for making a change in the proposed rule and additional comments and data are solicited.

Commenters also questioned the need for training in cardiopulmonary resuscitation (CPR). Basic knowledge of CPR together with training in first aid are required under the proposed rule so that mine rescue team members and alternates are prepared to respond to the unforeseeable as well as foreseeable circumstances which may arise under emergency mine rescue conditions. Although CPR techniques must be administered quickly after the need arises, and under some circumstances may even be dangerous to administer, MSHA believes it would be a distinct advantage if mine rescue team members had the ability to render this life-saving assistance.

Together with training through courses of instruction, the proposed rule would require rescue team members and alternates to receive practical training with the rescue equipment to be used by the team at least four hours each month or eight hours bimonthly. All team members and alternates would be required to annually complete at least 40 hours of such training to remain eligible to serve on the rescue team. Under the proposed rule, the required training sessions would include wearing and use of the breathing apparatus provided the rescue team for at least two hours bimonthly while under oxygen and training in the use of auxiliary equipment, if provided. The required practical training sessions would be held underground at least once each four months and the location of such sessions rotated among the mines served by the team.

Several commenters suggested that fewer practical training sessions by mine rescue teams would be adequate. The proposed monthly or bimonthly training session requirement is based on MSHA's experience in mine rescue and recovery work and reflect MSHA's experience that failure of mine rescue teams in the past most often has been due to insufficient training with rescue equipment and in rescue and recovery procedures. Accordingly, monthly or bimonthly training sessions are retained as a proposed requirement of mine rescue teams.

The proposed rule would also require MSHA approval of instructors to teach the proposed training course requirements to ensure uniform competency and procedures in mine rescue and recovery operations. Instructors would be approved by the MSHA Office of Education and Training. The proposed rule does not contain experience requirements for instructors, however MSHA is soliciting comments regarding whether previous mining or mine rescue experience should be part of instructor approval. An instructor's approval could be revoked by the MSHA Training Center Chief for good cause, which under the proposed rule may include not teaching a training course at least once every 24 months. The proposed rule would provide appeal procedures for approval revocation.

Under the proposed rule, the person in charge of each mine rescue team would be required to notify the Training Center Chief in the area where the mine rescue station is located of the training sessions scheduled, including the location, times and length of each session. In addition, a record of all practical training sessions and training courses completed by each team member and alternate would be required to be maintained at the mine rescue station for a period of two years.

The proposed rule would also establish basic requirements for mine rescue stations. It is proposed that mine rescue stations be adequate in size to conduct classes, unless other classrooms are readily available, and that the stations be provided with hot and cold running water, illumination, heat and a commercial telephone. It is also proposed that mine rescue stations be located no greater than 60 minutes travel time by conventional ground transportation from the mine or mines served. Greater distances, however, may be approved by the District Manager where mines are remotely located.

To ensure prompt response by mine rescue teams in the event of an emergency, the proposed rule would also require each mine to have a mine rescue notification plan. Such notification plan would be on a form supplied by MSHA and would outline procedures to be followed in notifying the mine rescue team when their services were required. It is proposed that a copy of the mine rescue notification plan and, where applicable, a copy of the written cooperative or contractual agreement for rescue team services be posted at the mine rescue station and the office of the mine served by the rescue team.

The proposed rule would also require a mine map of each mine served by a rescue team be posted at the mine rescue station. This proposed requirement is intended to assist mine rescue teams in being familiar with the ventilation, escape routes and refuge chambers of mines served. To adequately serve this purpose without imposing undue burden upon the operator, it is proposed that mine maps provided to mine rescue stations be updated no less than every six months, or whenever significant changes are made affecting ventilation, escape routes or refuge chambers.

Under the proposed rule each operator would also be required to provide representatives of miners information concerning mine rescue teams. MSHA believes the operator's method of ensuring availability of mine rescue teams is of great interest and concern to miners. In addition, the proposed requirement is responsive to Congress' clear intention to engender greater miner involvement in achieving purposes of the Act.

In addition to comments concerning specific proposed requirements, one commenter raised the issue of whether independent construction contractors would be required to comply with the proposed rule. This question arises from the definition of "operator" in

Section 3(d) of the Act. The Act defines the operator of a mine as "any owner, lessee, or other person who operates, controls, or supervises a coal or other mine or any independent contractor performing services or construction at such mine."

The effectiveness of the proposed rule is premised upon continuous availability of mine rescue team services to each underground coal or other mine. To achieve the necessary continuity in availability of mine rescue teams, the "operator" who is an owner, lessee, or other person who operates, controls, or supervises a coal or other mine would be held responsible for compliance with the proposed rule. An "operator" meeting this definition is in the best position to provide and maintain continuously available mine rescue capability. If independent contractors were required to provide for availability of mine rescue teams while performing contruction or services at a mine, it would be necessary to shift responsibility for maintaining the availability of rescue teams. After an independent contractor completed its work at a mine site, responsibility for maintaining availability of mine rescue teams would have to shift to the operator who is the owner, lessee, or other person who operates, controls or supervises the mine. Such shifting of responsibility would unnecessarily jeopardize continuous mine rescue capability. Therefore, compliance with the proposed rule would be the responsibility of the "operator" who is an owner, lessee, or other person who operates, controls or supervises a coal or other mine.

### III. Executive Order 12044

After review of available information, it has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044 and the Department of Labor's proposed guidelines for implementing the Executive Order (43 FR 22915, May 26, 1978). Based upon a projected need for approximately 800 new mine rescue teams and 350 new mine rescue stations in the coal mining industry and 90 new teams and 50 new stations in the metal and nonmetal mining industries, at a cost of approximately 33 thousand dollars per team and 39 thousand dollars per station, the total first year cost of this proposed rule would be approximately 45 million dollars.

### Drafting Information

The principal persons responsible for preparation of this proposed rule are: John S. Curtis, Education and Training, Mine Safety and Health Administration and Edward C. Hugler, Attorney Advisor, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Dated: December 27, 1978.

Robert B. Lagather,
*Assistant Secretary for Mine Safety and Health.*

1. It is proposed to add a new part 49 to Subchapter H, Chapter I, Title 30, Code of Federal Regulations as set forth below:

## PART 49—MINE RESCUE TEAMS

Sec.



Authority: The provisions of this Part 49 are issued pursuant to Sections 101, 103(h), 115(e) and 508 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164).

### § 49.1 Scope and purpose.

This Part 49 implements the requirements of Section 115(e) of the Federal Mine Safety and Health Act of 1977 under which each operator of an underground coal or other mine shall provide for mine rescue teams to be available for rescue and recovery work at each such mine in the event of an emergency. This Part 49 applies to each operator of an underground coal or other mine.

### § 49.2 Availability of mine rescue teams.

(a) Within 6 months after the effective date, or prior to the opening of a new mine thereafter, the operator of each underground mine shall have at least two mine rescue teams available for rescue and recovery work. Except as provided in paragraph (b)(3) of this section, each mine rescue team shall consist of at least five members and two alternates, who shall be trained and qualified in accordance with the provisions of §§ 49.5, 49.6, and 49.7 of this part, and equipped in accordance with the provisions of § 49.3 of this part.

(b) The operator of an underground mine shall provide for the availability of mine rescue teams by:

(1) Establishing and equipping mine rescue teams which are available at all times when miners are underground; or

(2) Entering into a written contractual or cooperative agreement which insures the availability of mine rescue teams at all times when miners are underground; or

(3) Establishing an alternate mine rescue plan approved by the District Manager, if the mine is small and in a remote location. Such alternate plan shall be submitted to the District Manager in the district where the mine is located and state:

(i) The number of miners employed at the mine,

(ii) The distances from an established mine rescue team and station,

(iii) The availability of State mine rescue teams and stations,

(iv) The reasons why rescue teams which fully meet the requirements of paragraph (a) of this section cannot be made available,

(v) The operator's alternate method for enduring that mine rescue capability is provided at all times when miners are underground.

(c) The District Manager for the district where the mine is located shall be notified in writing by the operator as to how the requirements of paragraph (a) of this section will be met. The operator shall also provide the District Manager a copy of any contractual or cooperative agreement for the services of mine rescue teams.

### § 49.3 Equipment for mine rescue teams and stations.

(a) Each mine rescue team shall be provided with at least the following apparatus, equipment, and accessories which shall be stored in a mine rescue station:

(1) At least six self-contained oxygen breathing apparatus with a minimum of 2 hours capacity each, approved under Subpart H of Part 11 of this title, and the necessary equipment for testing such breathing apparatus;

(2) One extra oxygen bottle for each self-contained compressed oxygen breathing apparatus;

(3) Seven approved self-rescuers available for team members;

(4) Seven permissible cap lamps and charging rack;

(5) One portable stretcher;

(6) One blanket;

(7) One emergency first aid kit; and

(8) One tool bag containing:

(i) one brass hammer and brass nails if the rescue team is intended to render service to mines with explosive or potentially explosive atmospheres, or

(ii) one hammer and nails for nonexplosive atmospheres, and

(iii) accessories necessary for taking notes and marking locations underground.

(b) Each mine rescue station shall be equipped with at least the following apparatus, equipment and accessories:

(1) Two gas detectors for:

(i) Methane ($CH_4$) in concentrations of 0-5 percent or 0-10 percent,
(ii) Hydrogen sulfide ($H_2S$),
(iii) Carbon monoxide (CO),
(iv) Carbon dioxide ($CO_2$), and
(v) Oxides of nitrogen (NO);
(2) One methane ($CH_4$) detector—100 percent;
(3) Two oxygen indicators or two flame safety lamps;
(4) One oxygen pump, suitable to the type of breathing apparatus used by the rescue teams;
(5) A portable supply of liquid air, liquid oxygen, pressurized oxygen, or chemicals, as applicable to the breathing apparatus used by the mine rescue team(s), sufficient to sustain each team for 6 hours while using the breathing apparatus during rescue operations;
(6) A supply of spare parts for repairing the breathing apparatus used by the rescue team(s);
(7) One portable mine rescue communications systems, approved under Part 23 of this title, with spare parts, or a sound-powered communication system, with spare parts. The wires or cable to the communication system shall be of sufficient tensile strength so that the wires or cable may be used as a manual communication system. These communication systems shall be at least 1,000 feet in length;
(8) One self-contained oxygen resuscitator.
(c) Each operator shall establish, in advance, transportation for rescue teams and equipment by conventional ground transportation from the rescue station to the mine or mines serviced. Faster means of transportation may be used in the event of an emergency.

**§ 49.4 Maintenance of mine rescue apparatus and equipment.**

Mine rescue apparatus and equipment shall be stored and maintained in a manner that will insure readiness for immediate use. Breathing apparatus shall be inspected and tested, and where applicable, cylinder pressure maintained, by a person trained in the use and care of breathing apparatus in accordance with manufacturer's recommendations at intervals not exceeding 30 days. A record of inspections and tests, initialed by the person making the inspections and tests, shall be maintained at the mine rescue station for a period of two years.

**§ 49.5 Physical requirements for team members and alternates.**

(a) Each member of a mine rescue team and alternates shall annually be examined by a physician who shall certify that each member and alternate is physically fit to perform mine rescue and recovery work for prolonged periods under strenuous conditions, including use of a self-contained oxygen breathing apparatus. The first such physical examination shall be completed within 30 days prior to scheduled initial training.
(b) The operator shall have MSHA Form 5000-3 filled out and signed by a physician for each member of a mine rescue team and alternates. Such forms shall be kept on file at the mine rescue station for a period of two years.
(c) The following conditions shall disqualify a miner from mine rescue team service:
(1) Seizure disorder;
(2) Perforated eardrum;
(3) Hearing loss without a hearing aid greater than 40 decibels at 500, 1,000 and 2,000 Hz, using the ISO or ANSI scale;
(4) Repeated blood pressure (controlled or uncontrolled by medication) reading which exceeds 160 systolic, or 100 diastolic, or which is less than 105 systolic, or 60 diastolic;
(5) Distant visual acuity without glasses less than 20/50, snellen, in one eye and 20/70 in the other;
(6) Heart disease;
(7) Hernia;
(8) Major back surgery within the preceding year;
(9) Absence of a limb or hand.
(10) Any other condition which the examining physician determines renders the miner physically unfit for rescue team service.

**§ 49.6 Requirements for team members and alternates.**

Each member of a mine rescue team and alternates shall have been employed in an underground mine for a total of one year or more within the three preceding years prior to becoming a team member. Miners whose duties have required regular underground work prior to becoming a team member, even though they are stationed on the surface, shall be considered employed in an underground mine.

**§ 49.7 Requirements for training of mine rescue teams; instructors; records of training.**

(a) Each member of a mine rescue team and alternates shall complete a 20-hour initial course of instruction, as prescribed by the Office of Education and Training, MSHA, in the use, care, and maintenance of the type of breathing apparatus that will be utilized by the mine rescue team.
(b) Each member of a mine rescue team shall complete a 10-hour course of instruction, as prescribed by the Office of Education and Training, MSHA, in the use, care, capabilities and limitations of auxiliary mine rescue equipment where such teams are provided with auxiliary equipment.
(c) Each member of a mine rescue team and alternates shall complete a 20-hour course of instruction, as prescribed by the Office of Education and Training, MSHA, in advanced mine rescue procedures upon completion of the initial training.
(d) If the type of breathing apparatus is changed, the mine rescue team members and alternates shall have, as soon as is practicable, an additional 4 hours of training using the different breathing apparatus after the change is made.
(e) Each member of a mine rescue team and alternates shall receive first aid training and training in cardiopulmonary resuscitation which are approved by the Office of Education and Training, MSHA.
(f) Each member of a mine rescue team and alternates shall have current mine map training and be completely familiar with the mine ventilation, escape routes, and refuge chambers for each mine served by the rescue team.
(g) Prior to serving on a mine resuce team, each person shall have completed the training as prescribed in paragraphs (a), (b), (c), (d), (e) and (f) of this section.
(h) Thereafter, each member of a mine rescue team and alternates shall annually complete refresher training courses in first aid and cardiopulmonary resuscitation which are approved by the Office of Education and Training, MSHA.
(i) Each mine rescue team and alternates shall train at least 4 hours each month or 8 hours bimonthly. Training shall include the wearing and use of the breathing apparatus by the team members and alternates for a period of at least 2 hours while under oxygen bimonthly. A team member or alternate will be ineligible to serve on a team if more than 8 hours of training is missed during one year, unless additional training is received to make up for the time over 8 hours of training missed. All team members and alternates shall receive at leat 40 hours of trailing a year.
(j) Each mine rescue team shall train in the use of auxiliary mine rescue equipment where such equipment is provided. Training shall include the wearing and use of auxiliary breathing apparatus for a perod of at least two hours every six months. This training will be a part of the 40 hours of training as required each year by paragraph (i) of this section.
(k) The required training session shall be held underground at least once each 4 months, and the location of such underground training shall be rotated among the mines served by the teams.
(l) The training courses required by this section shall be conducted by in-

structors who have been approved by MSHA in any of the following ways:

(1) Instructors may satisfactorily complete a program of instruction approved by the office of Education and Training, MSHA, in the subject matter to be taught and either:

(i) take the instructor's training course conducted by the Office of Education and Training, MSHA, or

(ii) be designated by the Office of Education and Training, MSHA, to give such instruction;

(2) Instructors may be designated by the Office of Education and Training, MSHA, as approved instructors to teach specific courses based on their qualifications and teaching experience;

(3) Cooperative instructors who have been designated by the Office of Education and Training, MSHA, to teach MSHA-approved courses prior to the effective date of this part and who have taught such courses within the 24 months prior to the effective date of this part shall be considered approved instructors for such courses.

(m) The Chief of the Training Center may revoke an instructor's approval for good cause, which may include not teaching a course at least once every 24 months. A written statement revoking the approval together with reasons for revocation shall be provided the instructor. The affected instructor may appeal the decision of the Training Center Chief by writing to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203, within 30 days of notification of the Training Center Chief's decision. The Director of Education and Training shall render a decision on the appeal within 30 days after receipt of the appeal.

(n) The person who is in charge of the mine rescue team shall notify the Chief of the Training Center in the area where the mine rescue station is located of the schedule of training sessions which shall include the locations, times, and length of each session.

(o) A record of training of each team member and alternate as required in paragraphs (a), (b), (c), (d), (e), (f), (h), (i), (j), (k) and (l) of this section shall be on file at the mine rescue station for a period of two years.

**§ 49.8 Mine rescue station.**

(a) A mine rescue station, designated by a conspicuous sign, shall be adequate in size to conduct classes, unless other classroom facilities are readily available, and shall be provided with hot and cold running water, illumination, heating devices and a commercial telephone.

(b) Mine rescue stations shall be located no more than 60 minutes travel time by conventional ground transportation from the mine or mines to be served. In areas where mines are remotely located, greater distances may be approved by the District Manager based on information received under paragraph (b)(3) of § 49.2

(c) Mine rescue stations at mine sites shall be located on the surface and offset from any mine openings so as to protect the rescue station from forces coming out of the mine should an explosion occur.

(d) Authorized representatives of the Secretary shall have the right of entry to inspect any designated mine rescue station.

**§ 49.9 Mine emergency notification plan and mine map.**

(a) Each mine shall have a mine rescue notification plan outlining the procedures to follow in notifying the mine rescue team when there is an emergency that requires their services.

(b) A copy of the mine rescue notification plan and any cooperative or contractual agreement for the services of mine rescue teams shall be posted in the mine rescue station and in the mine office of the mine served by the rescue teams.

(c) The mine rescue notification plan shall be on a form supplied by MSHA.

(d) A copy of a current map of each mine served by the mine rescue station, updated no less than every six months or whenever significant changes are made such as changes affecting ventilation, escape routes or refuge chambers, shall be posted in the mine rescue station.

**§ 49.10 Representatives of miners.**

Each operator shall provide representatives of miners designated in accordance with Part 40 of this title a copy of (a) any notice submitted to the District Manager in accordance with § 49.2(c) of this Part regarding how the operator is ensuring mine rescue teams are available to the mine; (b) any cooperative or contractual agreement for the services of mine rescue teams; and (c) the current mine rescue notification plan.

[FR Doc. 79-198 Filed 1-4-79; 8:45 am]

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FRIDAY, JANUARY 5, 1979
PART III


# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

■

# LICENSING AND GENERAL BIOLOGICAL PRODUCTS STANDARDS

## Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency"

[4110-03-M]

Title 21—Food and Drugs

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

SUBCHAPTER F—BIOLOGICS

[Docket No. 77N-0091]

PART 601—LICENSING

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

## Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency"

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) issues a final rule concerning the recommendations of the Panel on Review of Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency." This rule contains labeling and informed-consent requirements as well as provisions for the presence of group A streptococcus in these products.

DATES: Effective January 5, 1979; requirements for labeling are effective July 5, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Joe Holloway, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 8, 1977 (42 FR 58266), the Commissioner of Food and Drugs published a proposal containing findings of the Panel on Review of Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency." The Panel evaluated the safety and effectiveness of 32 bacterial vaccine and bacterial antigen products and recommended that: (a) no products be placed in Category I (those biological products determined to be safe, effective, and not misbranded); (b) three products be placed in Category II (those biological products determined to be unsafe, ineffective or misbranded); (c) seven products be placed in Category IIIA (those biological products for which available data are insufficient to classify their safety and effectiveness but which may remain in the interstate commerce pending completion of testing and conformance with the recommendations of the Panel); and (d) twenty-two products be placed in Category IIIB (those biological products for which available data are insufficient to classify their safety and effectiveness and which should not continue in interstate commerce).

The Commissioner agreed with the Panel's recommendations concerning the classification of these products. Accordingly, the Commissioner announced his intention to publish a notice of opportunity for hearing to revoke the licenses for those products placed in Categories II and IIIB. The Notice of Opportunity for Hearing was published in the FEDERAL REGISTER of December 9, 1977 (42 FR 62162). Interested persons were advised that they could submit additional data in response to the revocation notices; for products placed in Category IIIA, comments or additional data concerning the classification were also invited.

In addition, the November 1977 proposal contained the Commissioner's responses to other panel recommendations concerning the testing, content, and labeling of bacterial vaccines and antigens. In view of these recommendations, the Commissioner proposed two amendments to the biologics regulations: (1) in § 601.25(h) (21 CFR 601.25(h)), to require that the labeling for Category IIIA bacterial vaccines and antigens contain a prominent boxed statement referencing the Panel's findings of insufficient data on safety and effectiveness, that written informed consent be obtained from participants in the additional studies performed pursuant to § 601.25(h), and that a patient information insert be included with category IIIA products continued in interstate commerce; and (2) in § 610.19 (21 CFR 610.19), to eliminate group A streptococcal microorganisms and their derivatives from bacterial vaccines and antigens. Comments on these proposals were also solicited by the Commissioner in the November 1977 proposal.

Because manufacturers of those licensed products placed in Categories II and IIIB either did not request a hearing, requested a hearing but submitted no additional data, submitted additional data which resulted in reclassification of products, or requested that the licenses be revoked, the Commissioner published in the FEDERAL REGISTER of October 27, 1978 (43 FR 50247), a notice that these licenses have been revoked. Nevertheless, the Commissioner has considered the comments submitted by patients and physicians concerning the classification of these products, as well as the comments on the proposed amendments to the biologics regulations. Interested persons were given until January 9, 1978 to file comments with the Hearing Clerk. Three hundred and twelve letters were received, many of which contained more than one comment. A summary of the comments and the Commissioner's responses are as follows:

1. Many comments supported two products which were classified in Category IIIB. These products are V-677 Streptococcus Vaccine and Entoral, both manufactured by Eli Lilly and Co. Two hundred and ninety-five comments requested reclassification of V-677 and public hearings to provide a forum for expression of the commentor's views. One hundred and five letters consisted of or included a form containing information in support of the safety and effectiveness of V-677. All of the comments contained testimonials in support of the product. The comments expressed the belief that V-677 is more effective for the treatment of arthritis than other drugs on the market and that, if V-677 is removed from the market, patients will be forced to accept the painful effects of arthritis or take drugs with dangerous side effects. In addition, the comments alleged that physicians may be subject to malpractice suits for not treating patients with the most effective drug, which, in the commentors' view is V-677. Many of the comments suggested that the costs for studies required to establish the safety and effectiveness of V-677 should be borne by the Federal government. An additional 300 comments were submitted by patients in support of the safety and effectiveness of Entoral, a cold preparation. These comments also contained reports of Entoral's value in individual cases.

The biologics safety and efficacy review procedures were first proposed in the FEDERAL REGISTER of August 18, 1972 (37 FR 16679). As stated in that proposal, because all biological products are also drugs within the meaning of the Federal Food, Drug, and Cosmetic Act, the requirements for demonstrating the effectiveness of drugs and prohibitions against their being misbranded apply to products which are also subject to the licensing provisions of section 351 of the Public Health Service Act. Although biological products have been reviewed for safety in the past, new criteria for safety, like the contemporary standards for demonstrating effectiveness, have developed in recent years.

After reviewing the comments on the proposal, the Commissioner issued a final order establishing the procedures for review of the safety, effectiveness, and labeling of biological products in the FEDERAL REGISTER of

February 13, 1973 (38 FR 4319). The preamble to that final order discussed the requirements that biological drugs be shown to be both safe and effective for all their intended uses.

Section 601.25 governing the review of biological products contains standards for safety and effectiveness. Section 601.25 provides that "proof of effectiveness shall consist of controlled clinical investigations," unless this requirement is waived on the basis of a showing that it is not reasonably applicable to the biological product or essential to the validity of the investigation. Alternate methods of investigation are appropriate only if they are "adequate to substantiate effectiveness." Although the regulations provide that partially controlled or uncontrolled studies, as well as significant human experience, may be used to corroborate controlled clinical studies, isolated case reports, random experience, and reports lacking the details which permit scientific evaluation will not be considered in support of the effectiveness of the drug. (See § 601.25(d)(2).) Section 601.25(d)(3) authorizes the panels to consider the benefit-to-risk ratio in determining safety and effectiveness.

Since promulgation of the regulations governing the review of the safety, effectiveness, and labeling of all biological products, the Supreme Court has reaffirmed that controlled clinical investigations constitute the contemporary standard and represent the well-established principles of scientific investigation. (See *Weinberger v. Hynson, Westcott and Dunning, Inc.*, 412 U.S. 609 (1973).) Based upon the regulations and the law, the Commissioner finds that the testimonials submitted in support of V-677 and Entoral are not an acceptable alternative to scientifically valid proof of the safety or effectiveness of these products. As the Supreme Court noted, anecdotal reports about drug safety and effectiveness are, unfortunately, "treacherous." "The Panel concluded that the effectiveness and safety of treatment with a product for a given disease can be judged properly by adequate and well-controlled studies on populations of patients having the most well-defined disease states and carefully selected to be as homogenous as possible." (See the November 1977 proposal at 42 FR 58270 under "Areas of Panel Concern.") The Panel did, however, attempt to identify information that would corroborate the testimonial evidence and unconfirmed and uncontrolled clinical impressions that it received from both producers and individuals. Alternative methods for adequate and well-controlled studies were considered. None of these alternatives was considered to be sufficient to establish definitive effectiveness, for reasons articulated in the evaluation of each product. About safety, the Panel noted that safety claims "were based primarily upon the manufacturer's reports of adverse reactions. This might have been satisfactory had there been some evidence of systematic followup by physicians for the late, and perhaps subtle, adverse effects that might be associated with repeated inoculations. In view of what is known from laboratory studies about the potential risks associated with repeated inoculations of foreign substances, the Panel was left with reservations about the long-term safety of the subject products." (See the November 1977 proposal at 42 FR 58270-58271 under "Safety.") The Panel concluded that it "could not recommend waiver of these requirements [21 CFR 601.25(d)] on the basis of claims that a controlled clinical trial is not feasible because of lack of funding, lack of interest, or difficulty in obtaining a sufficient number of patients." (See the November 1977 proposal at 42 FR 58271 under "Panel Specific Product Reports and Reviews.")

The Panel's report reflects the careful consideration that the Panel gave to physician and patient reports submitted in support of licensed products. The Panel issued a position statement which was "prompted in large part by the expressed fears of many practicing physicians that Panel members will make arbitrary decisions and that the findings of doctors who had used these biologicals for many years will be discounted without careful consideration. This is not the intent of the Panel * * *." (See the November 1977 proposal at 42 FR 58272 under "Extent to Which Prior Use of These Products Can Be Used To Satisfy Present Standards of Safety and Effectiveness.") This statement makes clear that the views of those persons who have submitted comments on the Commissioner's proposal have already been thoughtfully considered. In discussing its evaluation of safety, the Panel identified exactly those problems which establish the need for scientifically valid and controlled studies: the lack of an effective mandatory system for reporting adverse reactions, that a practicing physician sees only a limited number of patients and therefore will identify only adverse reactions that occur at a very high rate, that patients with severe reactions may not return to the same treatment situation, and that a causal relationship is difficult to discern due to the time and other events between the administration of a drug and the onset of the adverse reaction. The Panel's summary clearly shows that every effort was made to give all reasonable credit to significant human experience during marketing. (See the November 1977 proposal at 42 FR 58272 under "Summary.")

The Commissioner notes that nondeliberative portions of all meetings of the Panel were open to the public. Announcements of the meetings were published in the FEDERAL REGISTER before each meeting, and interested persons were given an opportunity to make presentations to the Panel. No person who requested an opportunity to appear and make a presentation was denied that request. In addition, as part of the process of nominating qualified experts to serve on the Panel, the Commissioner issued letters to approximately 35 medical and scientific associations and consumer groups advising them of the review of bacterial vaccines and bacterial antigen products. Ample opportunity was given for public participation in the proceedings, and manufacturers had adequate time and opportunity to present additional data in support of continued licensure for their products. For these reasons, the request that additional public hearings be provided to present a forum for those disagreeing with the Panel's recommendations and the Commissioner's conclusions is denied.

The Panel reviewed and evaluated the reports submitted in support of the safety and effectiveness of V-677. As to effectiveness, the Panel found that the only "controlled" study was inadequate, that its result was inconclusive and that it "does not provide the data required for a positive judgment of the safety or effectiveness of V-677." (See the November 1977 proposal at 42 FR 58290 under b. *Effectiveness.*) The Panel concluded that the study had "deficiencies which seriously impair current usefulness." As to safety, the Panel concluded that the available data supporting the presumed safety of the product "may be more apparent than real" and that reported observations "posed questions of safety with regard to the chronic injection of such material into humans." (See 42 FR 58290 under a. *Safety.*) The Panel placed V-677 in Category IIIB because there is no substantial evidence of safety or effectiveness nor is there even evidence presumptive of safety.

The Panel reviewed the data submitted in support of Entoral's effectiveness and concluded that although the labeling for the product was cautiously worded, "the statement on use of the vaccine does imply effectiveness, but the implication is not supported by the evidence." (See the November 1977 proposal at 42 FR 58286 under c. *Labeling.*) The Panel found that "the vaccine has long since been put to the test of controlled clinical studies and found wanting." (See 42 FR 58286 under a. *Critique.*) None of the studies

reviewed by the Panel demonstrated claims for effectiveness. The Panel concluded that there was neither substantial nor presumptive evidence of effectiveness of Entoral.

The Commissioner adopted the Panel's recommendations on V-677 and Entoral and proposed that they be placed in Category IIIB. A notice of opportunity for hearing on the revocation of the license of Entoral was not published since the license for Entoral was revoked at the request of Eli Lilly and Co. on April 11, 1977.

In response to the notice of opportunity for hearing concerning V-677, Eli Lilly and Co. did not request a hearing or submit any data. Accordingly, their license was revoked. (See the October 27, 1978 Notice.)

The Commissioner advises that an opportunity for a hearing is directed to the manufacturer of a product whose license is the subject of the proposed revocation. If a hearing is requested by a manufacturer and granted, all interested parties may present evidence regarding the proposed revocation (21 CFR 12.45). However, in view of the failure by Eli Lilly and Co. to request a hearing, no further proceeding is available.

The Commissioner notes that there are numerous drugs other than V-677 which are marketed for the treatment of arthritis. For this reason, the Commissioner rejects the suggestion that revocation of the V-677 license will cause substantial adverse effects for current users of V-677 who must now select other arthritis drugs. Drugs recommended for treatment of arthritic conditions, like every other drug, have the potential for causing some side effects in some individuals. Generally, it is the responsibility of the physician prescribing these drugs to weigh the benefits against the risks involved in treatment of each individual patient and to ensure that the patient gains the maximum benefits with the least possible risks.

The Commissioner also notes that the classification of a product into Category IIIB does not preclude further studies. It requires only that the product not be marketed commercially while controlled studies are conducted in accordance with the IND provisions of the law. Those persons being treated with V-677 may serve as test subjects for the IND clinical trials. This mechanism provides for continued availability of a drug but only as part of a plan to study its safety and effectiveness. This mechanism also provides maximum protection to the test subjects. Thus, although the Eli Lilly and Co. licenses for both Entoral and V-677 have been revoked, the law does not prohibit investigational new drug use of either drug.

2. Thirteen comments, primarily from practicing physicians, asserted that Hoffman Laboratories' Respiratory Bacterial Antigen Complex (BAC), and Pooled Skin BAC are effective for upper respiratory and skin infections and cause no known side effects. These comments requested that these products be reclassified.

The Panel recommended that the Respiratory BAC be placed in Category IIIA on the condition that it not contain group A streptococcus strains and that the labeling state in standard medical terminology the specific indications for use. (See the November 1977 proposal at 42 FR 58296.) The Panel recommended that the Pooled Skin BAC be placed in Category IIIB. For both products, the Panel concluded that there was no substantial evidence of safety and effectiveness. The Panel found some presumptive evidence of safety for the respiratory BAC products but no presumptive evidence of safety for the pooled skin products. These conclusions were based on an extensive review of the data submitted in support of these products and, as specifically noted by the Panel, upon the consideration of numerous "letters, depositions, and reports from physicians and patients supporting the efficacy of respiratory BAC products." (See the November 1977 proposal at 42 FR 58295.) The Panel noted that the support for the effectiveness of these preparations in humans in "based entirely on uncontrolled studies, case reports, letters, and depositions from physicians and their patients." (See 42 FR 58295 under (2) *Effectiveness.*) The Panel found that the indications for use in the labeling "are extremely broad," and that the "present state of knowledge neither proves nor disproves the possibility that bacterial antigens or vaccines in general or these products in particular induce either of the [claimed] effects." The Panel also felt that the package insert "is totally inadequate" in guiding the physician user's selection among the four products marketed. "Published articles supplied by the manufacturer, at the specific request of the physician, failed to provide adequate guidance." (See the November 1977 proposal at 42 FR 58296 under (4) *Labeling*). Hoffman Laboratories requested the revocation of their licenses for the manufacture of all of their licensed biological products. The comments recommending that these products be upgraded are rejected.

3. The Panel recommended that the Federal government sponsor some of the studies required to establish the safety and effectiveness of bacterial vaccines and bacterial antigen products. In response to that recommendation, the Commissioner noted that the regulations provided for such studies in § 601.25(h)(1) and acknowledged that such studies may be desirable and beneficial. Accordingly, the Commissioner solicited comments on the proposal by the Panel for the expenditure of Federal funds to study these products.

In response to that invitation, seven comments were received, all of which supported the expenditure of Federal funds for additional studies of products in category IIIA. The comments suggested that Federal support was necessary because the cost for the required studies would be prohibitive for small manufacturers. In view of the Panel's recommendation and the responses submitted, the Director, Bureau of Biologics, will notify the appropriate Federal agencies so that such studies may be considered and priorities assigned. The FDA budget does not provide for developmental research in support of marketed products because the law places this burden upon the proponent or manufacturer.

4. Two comments suggested that the Commissioner permit ineffective bacterial vaccines to remain on the market as placebos for psychological effects.

Ineffective drugs may not be lawfully sold or distributed in interstate commerce. Such drugs are misbranded and are new drugs within the meaning of the Federal Food, Drug, and Cosmetic Act. Unlike true placebos, ineffective drugs may cause physiological or pharmacological effects in addition to the psychological (placebo) effects. Therefore, the use of ineffective drugs as placebos is inconsistent with sound medical practice. Accordingly, the comments are rejected.

5. Two comments objected to the statement in item 1b. of the proposal's preamble at 42 FR 58315, that "safety and effectiveness of the products rest largely upon information, in the form of anecdotes and results of informal studies, which were collected during the long years of use of the products." The comments state that the statement is not true for some products placed in Category IIIA by the Panel. However, the comments did not identify any specific product or provide data to support their objection.

The Commissioner advises that the Panel's conclusions were based on data the manufacturers submitted in support of the products, other medical literature, and oral presentations by interested persons and manufacturers at the Panel's meetings. The statement in item 1b. of the proposal's preamble applies to all products placed in Category IIIA. Therefore, the comments are rejected.

6. One comment noted that *Staphylococcus albus* and *Staphylococcus*

*aureus* were incorrectly listed as components of the Hollister-Stier products classified as Category IIIB by the Panel. The organisms should have been listed as components of the Hollister-Stier products that were classified as Category IIIA by the Panel.

The Commissioner agrees with this comment. Therefore, the organism listing of *Staphylococcus albus* and *aureus* is corrected on the official agency copy of the proposal. This correction was also made in a notice published in the FEDERAL REGISTER of October 27, 1978.

7. One comment suggested that the Commissioner require in vivo studies in humans before a drug is marketed because treatment is usually given to a patient with a complicated disease process and in vitro results do not necessarily forecast the actual effects of the drug when used in humans.

The Commissioner advises that the requirements in §§ 601.21 and 601.25 already preclude the marketing of a drug in interstate commerce until there is substantial evidence of effectiveness derived from adequate and well-controlled investigations, including clinical investigations. Such studies include use in susceptible persons and should be sufficient to establish the pharmacological effects of the drug when used in the manner and by the mode of administration suggested in the manufacturer's labeling. Accordingly, the Commissioner believes there is no apparent need to change this requirement and the comment is rejected.

8. In conjunction with the proposal to place certain products in Category IIIA and in view of the Panel's conclusions concerning the effectiveness of Category IIIA drugs, the Commissioner proposed that (1) the circular and promotional material for these drugs must have a prominent boxed statement referencing the need for further data to fully establish effectiveness; (2) written informed consent be obtained from participants in the requisite additional studies, an explanation of the product and the purpose of the study be given to such participants, and a clear opportunity be provided to them to refuse to participate in the study; and (3) a printed patient insert be included with all Category IIIA Bacterial Vaccines and Bacterial Antigens which have been designated as having "No U.S. Standard of Potency" continued in interstate commerce. The requirements for the boxed warning and informed consent were the same as those proposed by the Commissioner in the FEDERAL REGISTER of September 30, 1977, in the proposal concerning the implementation of the report of the Panel on Review of Skin Test Antigens.

One comment was received in response to the proposed labeling. It stated that the requirement for a prominent boxed warning will cause a marked reduction in the use of the products identified with this notice.

As the Commissioner noted in the proposal, the conclusion by an expert panel that the data in support of the products' safety and effectiveness are currently insufficient is a material fact within the meaning of section 201(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(n)) and the failure to disclose this fact is misleading, resulting in the products being misbranded. Moreover, the Commissioner believes that it is essential that patients and physicians be aware of the lack of controlled studies in support of a product. In addition, the Commissioner notes that a boxed warning concerning the results of expert panel reviews has been used for many years in conjunction with drugs which were the subject of the efficacy review panels in the 1960's. (See § 201.200 (21 CFR 201.200).) Accordingly, the comment is rejected.

However, the Commissioner has decided that the adoption of the boxed warning and written informed consent for participants in studies conducted on Category IIIA products (§ 601.25(h)(4) and (5)) should be promulgated upon specific notice to those persons affected by the review of each category of biological products. Accordingly, this final order imposes these requirements for Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" only. When the final order is published for skin test antigens, the Commissioner will consider the application of these requirements to those particular products.

9. Three comments from manufacturers and manufacturer associations stated that § 610.25(h)(6) should not be amended to require a printed patient insert because the presence of a printed patient insert may result in the patient's refusal to take medications bearing such labeling. One comment stated that FDA has no legal authority to require such patient labeling.

FDA is charged with assuring that licensed biologics are safe and effective for their intended uses and that essential information concerning contraindications and warnings is fully disclosed to physicians. Accordingly, the Commissioner has reviewed the recommendations of the Panel regarding Category IIIA products, taking into account the following factors. The Panel stated:

> Justification for placing products in Category IIIA is presumptive evidence of effectiveness and safety. Although not clearly stated, the implication is that such suggestive evidence can be largely derived from the fact that many of the products have been widely used for many years and that although systematic rigorous trials may not have been done, the lack of reported dangerous side effects over a period of many years indicates in itself at least a certain degree of safety. Effectiveness can be looked at in the same way.

The Panel also noted that:

> Claims for safety were based primarily upon the manufacturers' reliance on long marketing experience and infrequent physicians' reports of adverse reactions. This might have been satisfactory had there been some evidence of systematic followup by physicians for the late, and perhaps subtle, adverse effects that might be associated with repeated inoculations. In view of what is known from laboratory studies about the potential risks associated with repeated inoculations of foreign substances, the Panel was left with reservations about the long-term safety of the subject products.

These products are administered repeatedly and over long periods of time. The medical profession generally recognizes that other therapies are available for the conditions for which these products are used. There is no present assurance that persons treated with these products are being made aware of the potential for risk or of the availability of alternative modes of treatment.

It was for these reasons that the Panel explicitly stated:

> Vaccines and antigens that have been recommended for Category IIIA, i.e., licensure permitted to continue for a limited time while further studies are done, require separate considerations on labeling.
>
> * * * Useful information about safety and effectiveness should be provided directly to patients who receive products continued in use. The package insert or circular used to satisfy the need for consumer information should contain the updated information provided to the prescribing physician. The package insert or circular given to the patient and physician should also state in boldface, at the beginning, that this product is under review by FDA for a limited time since safety and effectiveness have not been substantially established. In particular, it should be noted that adequately controlled human trials have not been done.

Accordingly, the Panel recommended that the labeling "include a patient information insert."

In view of the foregoing, the Commissioner concludes that it is in the public interest to provide users of these particular Category IIIA products with notice of those factors that concerned the Panel.

Therefore, the Commissioner also concludes that a procedure must be developed for providing this information to prospective users of these products. A proposed procedure is now being developed by the agency and will be published in the FEDERAL REGISTER as soon as possible.

The Commissioner notes, and concurs with the Panel's finding regarding, the specific characteristics of these products which distinguish them from other licensed biologics and from other drugs, and which therefore make it necessary, in the judgment of the Panel and the Commisssioner, to provide information to prospective users. In this respect the Panel stated:

> While all licensed biologics are undergoing reviews for safety, effectiveness, and appropriateness of labeling at this time, the products assigned to this Panel have several characteristics that distinguish them from other categories of vaccines and antigens.

This finding resulted from problems summarized by the Panel as follows:

> 1. The etiologies and pathogeneses of many conditions treated with "bacterial vaccines and antigens" and the way in which they might prevent or alleviate the pathologic state are not well understood.
> 2. The causal relationships of the species or strains of vaccine organisms (or derivatives) to the diseases for which they are prescribed are generally unclear.
> 3. Standards of potency are needed, including precise indentification of the contents of the finished products.
> 4. Patients treated for many of the recommended conditions represent highly heterogeneous subgroups whose conditions and symptoms are noticeably labile and difficult to characterize objectively. These subpopulations should be defined and identified.
> 5. Data on the rate and significance of spontaneous remissions in the chronic disorders for which these products are used are not available.
> 6. The rationale by which the selection of bacterial strains for incorporation in a given product often was either not clear or not stated.
> 7. The need to include different bacterial strains (and species) into one vehicle was not documented.

It should be noted that the policy to require labeling directed to the patient for certain prescription products as required by specific circumstances is already established and being followed by the agency. (See § 310.501, as amended in the FEDERAL REGISTER of January 31, 1978 (43 FR 4214) for oral contraceptives; § 310.515 (21 CFR 310.515), promulgated by final order published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37636) for estrogenic drugs; and § 310.516 (21 CFR 310.516), promulgated by final order published in the FEDERAL REGISTER of October 13, 1978 (43 FR 47178) for progestational drugs.) The authority to promulgate patient package insert information for drugs, including biological drugs subject to section 351 of the Public Health Service Act, is stated in the preambles of these final orders, as well as in the general labeling proposal published in the FEDERAL REGISTER of April 7, 1975 (40 FR 15392). This authority has been preliminarily upheld by the one court that has reviewed the issue (*Pharmaceutical Manufacturers Association* v. *FDA*, Civ. No. 77-291 (D. Del., October 5, 1977) (order denying preliminary injunction)). For a general explanation of FDA's rulemaking authority, see *National Nutritional Foods Association* v. *Weinberger*, 512 F.2d 688, 695-698 (2d Cir. 1975).

10. Two comments on proposed § 610.19 suggested that the regulation should be redrafted because it now appears to prohibit the use of group A streptococcus organisms under all circumstances.

The Commissioner advises that § 610.19 (21 CFR 610.19) prohibits the interstate marketing of any Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" which contain group A streptococcus organisms and their derivatives. However, the regulation does not prohibit the presence of these organisms in bacterial products subject to investigation under the investigational new drug provisions of the law and consistent with 21 CFR Part 312. the Commissioner finds the currently drafted regulation clear and rejects the comment.

The Commissioner considered the comments and other relevant information and concludes that the proposal on the Panel's recommendations concerning the Classification of products into Categories I, II, IIIA, and IIIB should be and is hereby adopted, with changes, as set forth below.

a. Category I—*Biological products determined to be safe and effective and not misbranded that should continue in interstate commerce.* None of the Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" was placed into this category.

b. Category II—*Biological products determined to be unsafe or ineffective or to be misbranded that should not continue in interstate commerce.* Product licenses for Category II products were revoked as announced in the FEDERAL REGISTER notice of revocation and reclassification on October 27, 1978 (43 FR 50247).

c. Category IIIA—*Biological products for which available data are insufficient to classify their safety and effectiveness but which may remain in interstate commerce.* Respiratory UBA (UBA-32) manufactured by Eli Lilly and Co., licensed No. 56; Respiratory B.A.C. manufactured by Hoffmann Laboratories, Inc., license No. 283; Staphylococcal B.A.C. manufactured by Hoffmann Laboratories, Inc., license No. 283; Bacterial Vaccines Mixed Respiratory (MRV or MRVI) manufactured by Hollister-Stier, Division of Cutter Laboratories, license No. 8; Bacterial Vaccines for Treatment, Special Mixtures containing only the following organisms—*Staphylococcus* (*aureus* and *albus*), *Streptococcus* (*viridans* and nonhemolytic) *Diplococcus pneumoniae, Neisseria catarrhalis, Klebsiella pneumoniae, Haemophilus influenzae* manufactured by Hollister-Stier, Division of Cutter Laboratories, license No. 8; Staphylococcus Toxoid Sclavo manufactured by Istituto Sieroterapico Vaccinogeno Toscano "Sclavo," license No. 238; Staphylococcus Toxoid; Formalinized: Dilution No. 1, Dilution No. 2; Digest-Modified manufactured by Lederle Laboratories Division, license No. 17; and Staphage Lysate (SPL) Type I and Types I and III combined manufactured by Delmont Labs, Inc., license No. 299. Licenses remain in effect for these products pending conformance with the Panel's recommendations and completion of testing (except that, at the request of Hoffmann Laboratories, Inc., their license to manufacture Respiratory B.A.C. and Staphylococcal B.A.C. was revoked as announced in the October 27, 1978 FEDERAL REGISTER notice of revocation and reclassification).

For products now herein classified in Category IIIA for which license revocations have not been issued at the request of the licensee, manufacturers shall submit, within 30 days following publication of this order, a written statement of those studies which the licensee proposes to undertake to resolve the questions raised about the products. If no such commitment is made or adequate or appropriate studies are not undertaken, the Commissioner shall institute procedings to revoke the license (21 CFR 601.25(h)(1)). Licenses for Category IIIA products will remain in effect pending the conduct of studies as recommended by the Panel and adopted by the Commissioner. Labeling changes recommended by the Panel and now adopted by the Commissioner shall become effective on July 5, 1979. Because data submitted by Delmont Laboratories, Inc., have been found to be adequate to reclassify its staphage lysate types I and II combined, license No. 299, from Category IIIB to IIIA, the requirements concerning completion of testing and labeling apply to these products.

Additional background data and information on which the Commissioner relies in promulgating these regulations are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)), the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)), and the Administrative Proce-

dure Act (secs. 4, 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 702, 703, 704)), and under authority delegated to the Commissioner (21 CFR 5.1), Parts 601 and 610 are amended as follows:

1. In Part 601, § 601.25 is amended by revising the heading of paragraph (h) and adding new paragraph (h) (4) and (5) to read as follows:

**§ 601.25 Review procedures to determine that licensed biological products are safe, effective, and not misbranded under the prescribed, recommended, or suggested conditions of use.**

* * * * *

(h) *Additional studies and labeling.*

* * *

(4) Labeling and promotional material for Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" requiring additional studies shall bear a box statement in the following format:

> Based on a review by the Panel on Review of (insert name of appropriate panel) and other information, the Food and Drug Administration has directed that further investigation be conducted before this product is determined to be fully effective for labeled indication(s).

(5) A written informed consent shall be obtained from participants in the requisite additional studies for Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" explaining the nature of the product and the investigation. The explanation shall consist of such disclosure and be so made that intelligent and informed consent be given, and that a clear opportunity to refuse is presented.

* * * * *

2. In Part 610, new § 610.19 is added to Subpart B to read as follows:

**§ 610.19 Status of specific products; Group A streptococcus.**

The presence of Group A streptococcus organisms and derivatives of Group A streptococcus in Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" may induce dangerous tissue reactions in humans. Available data demonstrate that they are unsafe as ingredients in products for human use. Group A streptococcus organisms and derivatives of Group A streptococcus are prohibited from Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency." Any Bacterial Vaccine or Bacterial Antigen with "No U.S. Standard of Potency" containing Group A streptococcus organisms or derivatives of Group A streptococcus in interstate commerce is in violation of section 351 of the Public Health Service Act (42 U.S.C. 262).

* * * * *

*EFFECTIVE DATE.* This regulation becomes effective January 5, 1979, except that the labeling requirements become effective July 5, 1979.

(Secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262); secs. 4, 10, 60 Stat. 238 and 242 as amended (5 U.S.C. 553, 702, 703, 704).)

Dated: December 22, 1978.

DONALD KENNEDY,
*Commissioner of Food and Drugs.*

[FR Doc. 79-227 Filed 1-4-79; 8:45 am]

Federal Register

FRIDAY, JANUARY 5, 1979
PART IV


# DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

■

# IMPORTATION OF PET BIRDS

## Proposed Restrictions

[3410-34-M]

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[9 CFR Part 92]

### PROPOSED RESTRICTIONS ON IMPORTATION OF PET BIRDS

AGENCY: Animal and Plant Inspection Health Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This document proposes to amend the regulations concerning the importation of pet birds into the United States and gives notice requiring importers to reimburse Veterinary Services for all costs incurred which are associated with the importation of such birds. The present regulations are very difficult to administer and certain deficiencies have been found that should be corrected to adequately protect poultry in the United States from the introduction and spread of exotic Newcastle disease. Additionally, the need exists for Veterinary Services to recover costs associated with providing services required by this activity. The intended effect of the proposal would be to revise the manner in which pet birds are imported into the United States sufficient to prevent the undue risk of spread of disease, and to provide for the recovery of costs incurred by Veterinary Services in providing services required by the importer which are associated with the importation of such birds.

DATE: Comments on or before March 6, 1979.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. George P. Pierson, USDA, APHIS, VS, Import-Export Staff, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11, of the Act of July 2, 1962 (21 U.S.C. 101-105, 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

In accordance with the provisions of 9 CFR Part 92, pet birds, intended for the personal pleasure of their individual owner and not for resale, can enter the United States upon inspection at specified ports of entry, where a determination of freedom from poultry diseases is made. Further, the pet birds must be accompanied by a declaration signed by the owner that the bird or birds were in his possession for a minimum of 90 days preceding importation and were not in contact with poultry or other birds during that period. In addition, at the time of entry, the owner is required to sign an agreement stating that the birds will be maintained in confinement in his or her personal possession separate and apart from all poultry and other birds for a minimum period of 30 days following importation at a place approved by the Deputy Administrator; that such birds will be made available for health inspection and testing by Department inspectors upon request until released at the end of such period; and that appropriate Federal officials in the State of destination will be immediately notified if any of the birds die or signs of disease are noted in any of the birds during that period.

Procedures as outlined have been most difficult to administer and certain deficiencies have been noted which should be corrected in order to protect poultry of the United States against the threat of the introduction and spread of exotic Newcastle disease via this source.

Chief among these deficiencies are the inability to adequately control the time and place of arrival of these birds in the United States, and the lack of adequate control over such birds once they have been released to the owner under the agreement for completion of the 30-day confinement and health inspection period. Since an import permit is not required for pet birds, the Department is not notified of the importation until the birds have arrived at a port of entry for inspection. Therefore, Department personnel may not be available to handle such shipments at the time the birds are presented for entry. Further, the owner may be inconvenienced by having to return at a later date to complete the entry procedure for his birds. These problems would be solved in this proposal by requiring advance reservation for quarantine space for importation of such birds with the owner providing the anticipated time and place of arrival with the request for space. This should facilitate the efficient inspection and handling of such shipments.

The lack of adequate control over such birds following their inspection and release at the port of entry under agreement creates a serious and potentially dangerous problem. Certain of the agreements have been falsely executed, containing fictitious names and addresses of owners. Further, other importers have sold the birds during the 30-day inspection and testing period and have reported their accidental escape when requested to present them for health inspection by Department inspectors. Still others have reported that the birds died during the holding period, but only after having been contacted by State or Federal officials and not on their own accord as the agreement intended.

During fiscal year 1976, more than 800 birds were refused entry, and a majority were subsequently destroyed. For fiscal year 1977 this figure increased to more than 2,000 birds which were refused entry. Most of these birds were refused entry because of their failure to qualify as personally owned pet birds. It should also be noted that, unlike birds classified as poultry, pet birds are not required to undergo a 30-day quarantine period, but are only required to be held on the premises of destination for 30 days following entry.

The proposed requirement for an advanced reservation for space at a quarantine facility should decrease the number of birds required to be destroyed by making importers more aware of entry requirements and insuring that certain pre-entry requirements can be met before such birds are presented for entry in to the United States. By requiring pet birds to be quarantined and inspected or 30 days before release, it would appear that the chance of introducing disease through this source would be further diminished. Also, transporting airlines would be advised of requirements for entry and encouraged not to accept birds for shipment in the country of origin which do not meet the requirement for entry into the United States.

The quarantine facilities would be operated by the U.S. Department of Agriculture, as the privately owned and operated facilities handle their own commercial shipments of birds. The private facilities are operated on an "all-in", "all-out" basis to prevent the release of any bird exposed to exotic Newcastle disease. This makes it difficult, if not impossible, to handle multiple shipments, especially when the shipments consist of one or two birds. By using isolation units developed by the U.S. Department of Agriculture, small, multiple shipments of birds could be handled other than on an "all-in", "all-out" basis without risking the spread of disease from one group of birds to another.

Cloacal samples from live birds and tissue samples from dead birds would be collected during the quarantine and submitted to the National Veterinary Services Laboratories for virus isolation studies to ascertain that the birds are free of exotic Newcastle disease. However, test specimens may be taken to determine the presence of any other communicable disease, if the

Deputy Administrator or his delegatee determines that there is reason to believe that the bird may have any other communicable disease.

The importer would pay for services rendered at the USDA-operated quarantine facilities. A fee schedule for such services would be established and would be obtainable from the Deputy Administrator, USDA, Veterinary Services, APHIS, Federal Building, Room 817, 6505 Belcrest Road, Hyattsville, Maryland 20782.

The charge for services would involve costs for initial entry service, required inspection service, services for feed, care and handling during quarantine, shipping charges for forwarding diagnostic specimen collected to the laboratory for examination, and laboratory costs incurred by the Department. The initial entry service costs would include travel to and from port and/or quarantine station, meeting birds at the port of entry, escorting birds to the quarantine facility, and inspecting birds upon arrival.

Required inspection service costs would include inspection of birds for evidence of disease, swabbing of live birds, the post mortem examination of dead birds, sample preparation, preparation of reports and supervision of cleaning and disinfection of the isolation unit after the release of birds. The charge would be made on a per-bird basis and to cover the entire quarantine and inspection period, including the cost of care, feed, and handling.

It was necessary to project certain costs to arrive at a fee schedule since actual costs for this type activity are not available. Some information was extracted from the present bird import program and was combined with appropriate projections to arrive at a reasonable and equitable fee schedule.

These projections were based on the assumption that the average rate of occupancy in quarantine facilities would be 80 percent, and that 3,700 lots consisting of 5,550 birds would be handled annually.

Hourly employee costs were calculated using the average hourly costs for each category of employee, i.e., veterinary medical officer, animal health technician, and bioaid. Using this average, the projected cost for labor at each facility would be $21,019 annually.

The cost estimate for processing laboratory samples was based on data taken from the actual cost of operating the section of the National Veterinary Services Laboratories concerned with tests for VVND. The total cost of testing specimens for VVND was averaged by the number of specimens tested during Fiscal Year 1977. Cost of shipping specimens is included in the total cost. The average laboratory cost for each facility was projected to be $10,290 annually.

The average annual cost of utilities at each facility was projected to be $2,454 and the average estimated cost of supplies was projected to be $1,168 each year.

Feed cost for each bird will vary but was projected to average at least $5.00 per bird for the entire quarantine period. The average annual cost for feed at each facility is projected to be $2,380.

Using all the above data, a total annual cost of $336,000 would be required for the operation of pet bird quarantine facilities. By assuming that one-half of the lots imported will be comprised of one bird and the other one-half of the lots will contain two birds, an average cost of $80.67 for one bird and $101.40 for two birds when housed together was calculated. Because all costs were estimated, the rates were rounded to $80 for one bird and $100 for two birds when housed together.

The above cost projections include an overhead factor of 16.85 percent, the percentage of Animal and Plant Health Inspection Service's Fiscal Year 1977 funds used for overhead. The overhead includes all administration costs such as regional and area offices, headquarters staff, Office of the Deputy Administrator and Administrator and all support functions such as budget and personnel operations.

In addition to the projected charge for services of $80 for one bird or $100 for two birds, for which the importer would reimburse Veterinary Services, the importer may have other expense at the time of entry. Such expense will vary from port to port, depending upon the distance the birds must be transported from the port to the quarantine facility, the availability of the importer at the time of entry and release of the bird or birds, and the ability of the importer to make an informal customs entry. Such costs are estimated to be an average of $50 for trucking and brokerage service respectively.

The proposed regulations would also specify the ports at which pet birds may be imported into the United States.

In Fiscal Year 1977, more than 49 percent of all lots of pet birds were offered for entry at the three ports of entry (New York, New York; Miami, Florida; and Honolulu, Hawaii) where the Department operates quarantine facilities. An additional 22 percent of the lots was offered for entry at ports where proposed USDA-operated facilities would be available. Therefore, approximately 71 percent of all pet birds offered for entry in fiscal year 1977 would have been offered at ports designated as quarantine stations under § 92.3(e) of the regulations as proposed herein. The remaining approximate 29 percent not offered at the designated ports would have to be refused entry or transported to ports with such facilities. Section 92.3(3)(iii) would provide that pet birds may be transported at the owner's expense to a port of entry designated in § 92.3 if available quarantine space exists, if the $40 reservation fee is paid by the importer and if shipments are made under conditions deemed sufficient by the Deputy Administrator to prevent the spread of communicable diseases of poultry.

It is proposed that a new § 92.2(c)(1) be added to allow pet birds from Canada and pet birds which have not been out of the United States for longer than 60 days to be permitted entry at any port specified in § 92.3. As explained subsequently in this supplementary information, it is proposed that such pet birds will not be required to be quarantined. Therefore, the entry of such pet birds would not have to be restricted to ports where pet bird quarantine facilities are maintained.

Adoption of this proposal should result in conservation of personpower and funds since the necessity for field inspection would be eliminated. A conservative estimate of personpower saved would be four person-years.

We believe that requiring an advance reservation for space prior to shipment of all pet birds from the country of origin, together with a health certificate issued by a national government veterinarian of the country of export and the subsequent 30-day quarantine will make importers more aware of the requirements for entry of pet birds and will result in improved compliance with entry requirements and a reduced likelihood of the introduction or dissemination of animal disease into the United States.

The information required on the health certificate should help insure that the bird is not diseased and that it is eligible for entry into the United States. The certifying official would also certify that the bird is being exported in accordance with the laws and regulations of the country of export. Such information should help insure that the Department is not assisting an importer in violating the laws of the country of export. Further, this should aid the Department of Interior in enforcing the Endangered Species Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Such action would also appear consistent with the provisions of § 7 of the Endangered Species Act.

The regulations would also provide that no more than two pet birds per family can be imported pursuant to the pet bird provisions, except for non-

psittacine pet birds from Canada. This is proposed in order to bring the Department's regulations into correlation with the U.S. Public Health Service's regulation which has a similar limitation on the number of psittacine birds which may be imported into the United States. Those individuals who have more than two birds to offer for entry per calendar year may follow the provisions in the regulations for importing a commercial shipment of birds.

Since Public Health Service's regulations only restrict the entry of psittacine birds, the proposed regulations would authorize the Deputy Administrator to permit a family to import more than two non-psittacine pet birds from Canada when he determines that such importation does not constitute an undue risk of introducing or disseminating any communicable disease of poultry. Canada has adopted effective animal disease eradication and control programs similar to the United States and therefore, it appears that more than two non-psittacine pet birds should be able to be imported into the United States without undue risk of the introduction of disease.

The regulations would also be amended to provide that health certificates be translated into English at the importer's expense. English documents are needed to facilitate the importation of the birds and since generally the United States taxpayer does not derive a benefit from the importation, the importer, who derives a benefit, should be responsible for the translation of foreign certificates into English.

An advance reservation fee would be required to provide a means for the importers of such birds to guarantee themselves space for handling their birds. Since there are a limited number of available quarantine spaces, those persons with reservations will be accommodated first. In those cases where the importer has no reservation the regulations provide that his shipment may be handled if space is available and the reservation fee is paid at that time. A $40 reservation fee would be required because this represents the minimum fee for a 30-day quarantine period at a quarantine facility operated by the Department.

As noted previously, a lot consisting of no more than two pet birds which originated in the United States and have not been outside of the country for more than 60 days and pet birds from Canada would be the only pet birds allowed entry under the provisions of the proposed regulations without quarantine. As stated above, Canada has adopted effective animal disease eradication and control programs similar to the United States and, therefore, additional requirements for pet birds from Canada should not be necessary.

Further, pet birds which have not been out of the United States for an extended period of time should constitute a less significant threat to spread disease upon return to the United States because a presumption exists that the birds were not diseased when they left the United States. In view of the short time they are out of the country, it appears reasonable to believe that there is less likelihood that the birds came in contact with diseased birds while outside the country. Pet birds generally do not come in contact with other avian species while outside the United States. A 60-day time period is proposed because this should provide the pet bird owner the ability to travel abroad and return to the United States without too many restrictions and yet afford sufficient protection to the United States to prevent the introduction of communicable diseases. However, in order to insure that the birds have not been out of the United States for a period exceeding 60 days, the returning birds would be accompanied by the United States veterinary health certificate issued prior to departure of the birds from the United States. The certificate would show the tattoo number or leg band number affixed to the bird in order to help insure that the birds covered by the certificate are the birds being offered for re-entry.

This proposed rulemaking would also revise § 92.4(b) of the regulations to extend the time during which permits are valid for the importation of commerical, zoological and research birds from 14 to 30 days and performing or theatrical birds from 14 to 90 days. These changes were previously published on August 11, 1975 (40 FR 33649). However, in subsequent amendments to § 92.4(b) these changes were inadvertently omitted from the amended section. The extension of time for performing or theatrical bird permits was made in order to allow flexibility which is required and is justified by the manner in which birds and poultry of this type are handled and maintained. The extension of time was made for permits issued for commercial, zoological and research birds to allow importers greater flexibility in meeting international shipping schedules and restrictions.

Further, the proposed regulations would also amend § 92.2(a) to authorize the Deputy Administrator upon request in specific cases to permit birds to be brought into or through the United States under such conditions as he may prescribe, when he determines in the specific case that such action will not endanger the livestock or poultry of the United States. Situations have arisen, particularly with respect to pet birds, where birds presented for entry into the United States have not strictly complied with all the requirements for importation, for example, where the bird becomes separated from the documents required to accompany the bird. Under the present regulations such birds must be refused entry. The proposed amendment would provide some relief to the importer, especially a tourist who may not be familiar with the Department's regulations. Such entry, however, will only be granted if the Deputy Administrator determines that conditions adequate to prevent the introduction of communicable disease can be established.

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

1. In § 92.2, that portion of paragraph (a) following the colon would be amended to read:

*Provided, That,* the Deputy Administrator may upon request in specific cases permit animals or products or birds to be brought into or through the United States under such conditions as he may prescribe, when he determines in the specific case that such action will not endanger the livestock or poultry of the United States.

2. In § 92.2, the phrase "or pet birds" would be added after the phrase "research birds" in the first sentence of paragraph (f) and paragraph (c) would be amended to read:

**§ 92.2 General prohibitions; exceptions.**

* * * * *

(c)(1) A lot consisting of no more than two pet birds per family offered for entry from Canada and which are not known to be affected with or exposed to any communicable disease of poultry, which are caged (prior to release from the port of entry) and which are personal pets, may be imported by the owner thereof at any port of entry designated § 92.3: *Provided, That,* such birds are found upon port of entry veterinary inspection under § 92.8 to be free of poultry diseases and at the time of entry the owner signs and furnishes to the Deputy Administrator, Veterinary Services, a statement stating that the bird or birds have been in his possession for a minimum of 90 days preceding the date of importation and that during such time such birds have not been in contact with poultry or other birds (for example, association with other avian species at exhibitions or in aviaries). *And provided further,* That the Deputy Administrator, Veterinary Services, may upon request in specific cases, permit the importation in accordance with the conditions prescribed in this paragraph of more than two non-psittacine birds that are per-

sonal pets, when he determines in the specific case that such importation will not involve a risk of introduction or spread of any communicable disease of poultry.

(2) A lot consisting of no more than two pet birds per family which originated in the United States and have not been outside the country for more than 60 days may be offered for entry under the provisions of § 92.2(c)(1): *Provided*, that, such birds are also accompanied by a United States veterinary health certificate issued prior to the departure of the birds from the United States and the certificate shows the leg band or tattoo number affixed to the birds prior to departure, and *Provided further*, That during port of entry veterinary inspection, it is determined that the leg band or tattoo on the bird is the same as the one listed on the health certificate. Lots of pet birds of United States origin which have been outside the United States for more than 60 days or which do not otherwise meet the requirements of paragraphs (c)(1) or (c)(2) of this section may be offered for entry under the provisions of paragraph (c)(3) of this section.

(3) A lot consisting of no more than two pet birds which are not known to be affected with or exposed to communicable diseases of poultry may be offered for entry at one of the ports of entry designated in § 92.3(e) under the following conditions:

(i) No more than two such birds per family per year are offered for entry under this pet bird exception.

(ii) The pet birds shall be accompanied by a veterinary health certificate issued by a national government veterinary officer of the country of export stating that he personally inspected the birds listed on the health certificate and found them to be free of evidence of Newcastle disease, ornithosis, and other communicable diseases of poultry, and that the birds were being exported in compliance with the laws and regulations of the country of export. Certificates in a foreign language must be translated into English at the expense of the importer.

(iii) An advanced reservation fee as required by § 92.4(a)(4) and a request for space which has been confirmed in writing, at a USDA-operated quarantine facility shall be made with the port veterinarian [3] at the port where the birds are to be held for a minimum 30-day isolation in a biological secure unit separate and apart from all other avian species, except, that birds arriving without an advanced reservation may be handled if an isolation unit is available, provided the reservation fee as required in § 92.4(a)(4) is paid.

Pet birds offered for entry at a port of entry that has not been designated as provided, in § 92.3, or pet birds arriving without an advanced reservation at a port of entry designated in § 92.3 but at which isolation units are not available, shall be refused entry at such port. However, such pet birds may be transported at the owner's expense to another port of entry designated in § 92.3 if available quarantine space exists, if the $40 reservation fee is paid by the importer and the birds shipped are to such other port under conditions deemed sufficient by the Deputy Administrator to prevent the spread of communicable diseases of poultry.

(iv) During the isolation period, the birds shall be subjected to such tests and procedures as required by the Deputy Administrator to determine whether the birds are free from communicable diseases of poultry.

(v) Following the isolation period, if the birds are found to be free of communicable disease of poultry, the port veterinarian shall issue an agriculture release for entry through U.S. Customs. If the birds are found during port of entry inspection or during quarantine to be infected with or exposed to a communicable disease of poultry, such birds shall be refused entry and handled in accordance with § 92.11(e) of this part.

(vi) The owner of the birds is responsible for all costs which result from these procedures and shall reimburse Veterinary Services for governmental expenses in accordance with § 92.12(b) and (c) of this part.

* * * * *

3. In § 92.3, paragraphs (e) and (f) would be relettered (f) and (g) respectively, and a new paragraph (e) would be added to read:

**§ 92.3 Ports designated for the importation of animals.**

* * * * *

(e) *Special ports for pet birds.* New York, New York; Miami, Florida; Brownsville, Laredo, and El Paso, Texas; Nogales, Arizona; San Ysidro and Los Angeles, California; and Honolulu, Hawaii, are designated as ports of entry for pet birds imported under the provisions of § 92.2(c)(3).

4. In § 92.4, the section heading, the first sentence of paragraph (a)(1), that portion of paragraph (a)(3) preceding the colon, the first sentence of paragraph (a)(4), and the third and fourth sentences of paragraph (b) would be amended to read:

**§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds, and for animal specimens for diagnostic purposes, [5] and special permits for cattle entering Harry S. Truman Animal Import Center.**

(a) *Application for permit; reservation required.* (1) For ruminants, swine, horses from countries listed in § 92.2(i)(1) of the regulations, poultry, poultry semen, animal semen, pet birds, commercial birds, research birds, zoological birds, and performing or theatrical birds and animal test specimens for diagnostic screening purposes, intended for importation from any part of the world, except as otherwise provided for in §§ 92.2(b) and (c), 92.19, 92.27, and 92.31, the importer shall first apply for and obtain from Veterinary Services an import permit. * * *

* * * * *

(3) An application for permit to import ruminants, swine, horses from countries listed in § 92.2(i)(1) of the regulations, poultry, poultry semen, animal semen, pet birds, commercial birds, research birds, zoological birds, and performing or theatrical birds, may also be denied because of: * * *

* * * * *

(4) For each lot of poultry or birds which are to be quarantined in facilities maintained by Veterinary Services, a reservation fee of $40 shall be paid by the importer or his agent at the time the permit or reservation for quarantine space is applied for. * * *

(b) *Permit.* * * * Animals and animal semen and animal test specimens for diagnostic screening purposes for animals intended for importation into the United States for which a permit has been issued, will be received at the specified port of entry within the time prescribed in the permit which shall not exceed 14 days from the first day that the permit is effective for all permits, except that the time prescribed in permits for the importation of pet birds, commercial birds, zoological birds, poultry, or research birds, shall not exceed 30 days, and for performing or theatrical birds or poultry shall not exceed 90 days.

Ruminants, swine, horses from countries listed in § 92.2(i)(1) of the regulations, poultry, poultry semen, animal semen, animal test specimens, and birds for which a permit is required by these regulations will not be eligible for entry if a permit has not been issued; if unaccompanied by such a permit; if shipment is from any port other then the one designated in the permit; if arrival in the United States is at any port other than the one des-

[3] The names and addresses of the port veterinarians, as well as a fee schedule for quarantine charges, are available from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782.

ignated in the permit; if the amimals (including poultry and birds) or animal semen, or animal test specimens offered for entry differ from those described in the permit; if the animals or animal semen, or animal test specimens are not handled as outlined in the application for the permit and as specified in the permit issued; or in the case of ruminants and swine, if ruminants or swine other than those covered by import permits are aboard the transporting carrier.

* * * * *

§ 92.5 [Amended]

5. In § 92.5, the section heading would be amended to insert, "pet birds," between poultry and commercial birds, and the first sentence of paragraph (c) would be amended to add "pet birds, except as provided for in paragraphs 92.2 (b) and (c)", between the words All and commercial.

6. In § 92.8, a new paragraph (c) would be added to read:

§ 92.8 Inspection at the port of entry.

* * * * *

(c) All pet birds imported from any part of the world, except pet birds from Canada and pet birds meeting the provisions of § 92.2(c)(2), shall be subjected to inspection at the Customs port of entry by a veterinary inspector of Veterinary Services and such birds shall be permitted entry only at the ports listed in § 92.3(e). Pet birds of Canadian origin and those birds meeting the provisions of § 92.2(c)(2) shall be subject to veterinary inspection at any of the ports of entry listed in § 92.3.

§ 92.11 [Amended]

7. In § 92.11, in paragraph (e) the phrase "pet birds, except as provided in § 92.2(c)," would be inserted before the words "commercial birds,".

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, Room 821, 6505 Belcrest Road, Hyattsville, Maryland during regular hours of business (8:00 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of December 1978.

NOTE.—This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." While this action has not been designated "significant" under those criteria, an approved Draft Impact Analysis Statement has been prepared and is available from the Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695.

M. T. GOFF,
*Acting Deputy Administrator,*
*Veterinary Services.*

[FR Doc. 79-286 Filed 1-4-79; 8:45 am]

Federal Register

FRIDAY, JANUARY 5, 1979
PART V


# DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

■

# HORSE PROTECTION REGULATIONS

## Definition of Terms and Certification and Licensing of Designated Qualified Persons

[3410-34-M]

Title 9—Animals and Animal Products

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

### SUBCHAPTER A—ANIMAL WELFARE

### PART 11—HORSE PROTECTION

### Definition of Terms and Certification and Licensing of Designated Qualified Persons

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The Horse Protection Act of 1970 was amended on July 13, 1976. Pursuant to the amended Act, this document amends the "Definitions" section of the regulations promulgated under the Act of 1970, and adds a new section to the regulations entitled "Certification and Licensing of Designated Qualified Persons (DQP's)." Additional amendments to the regulations will be published in the very near future. This partial amendment is being published while the balance of the new regulations are still being prepared so that the regulated industry may have sufficient time to prepare for the next show season which starts in February 1979.

DATE: Effective date January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8271.

SUPPLEMENTARY INFORMATION: On April 28, 1978, this Department published a notice of proposed rulemaking containing changes and additions to Part 11 of Subchapter A, Chapter I, Title 9 of the Code of Federal Regulations (43 FR 18514-18531). The proposed rulemaking included, among other things, provisions that: (1) certain prohibitions be established concerning the sale of horses at horse sales or auctions in addition to current prohibitions concerning the showing and exhibiting of horses; (2) procedures be established for the detention and inspection of horses; (3) procedures and requirements be established for Designated Qualified Persons (DQP's) to inspect horses for compliance with the Act; (4) procedures be established for the certification of horse industry DQP programs; and (5) requirements be established regarding space and facilities for inspection of horses required to be supplied by management of horse shows or exhibitions and horse sales or auctions. Proposals for new and revised definitions and other pertinent revisions relative to recordkeeping and other requirements also appeared in the notice of proposed rulemaking.

A total of 47 comments were received within the comment period in response to the proposed rulemaking. Although this is a relatively small number, many of the comments were from horse industry organizations and associations which represent several million individual members and constitutent organizations such as the American Horse Council, the United Professional Horseman's Association, Inc., the American Quarter Horse Association, the American Paint Horse Association, the American Horse Shows Association, Inc., the Appaloosa Horse Club, Inc., the American Saddle Horse Breeders Association, the Tri-State Horsemen's Association, Inc., the Tennessee Walking Horse National Celebration, the Tennessee Walking Horse Breeders and Exhibitors Association, the Walking Horse Owners of America Association, and the Walking Horse Trainers Association, Inc.

Comments were also received from private citizens, Department employees, and from humane agencies, such as the Humane Society of the United States, the Society for Animal Protective Legislation, and the American Horse Protection Association, Inc.

Many of the comments raised questions or made suggestions which, because of their validity, warranted some changes of the proposed standards. Certain editorial changes were also made for purposes of clarification. Because of the lengthy amount of time that will be required to incorporate suggested changes and comments into the proposed regulations for final rulemaking, the Department has decided to publish Sections 11.1 and 11.7 of the proposed regulations ("Definitions" and "Certification and Licensing of Designated Qualified Persons (DQP's)") as final rulemaking at this time. The remaining parts of the proposed regulations will be published as final rulemaking at a later date. The decision to publish Sections 11.1 and 11.7 as final rulemaking at this time was made so that the horse industry organizations and associations concerned would have sufficient time to study the requirements and to establish their DQP programs in time for the next horse show season. If final rulemaking were delayed until all comments received were considered, it is very likely that there would be insufficient time in which to establish such programs for certification by the Department before the next horse show season begins in February 1979.

#### Discussion of Comments

##### DEFINITIONS

The proposed rulemaking contained a definition for the "Area Veterinarian in Charge," which is specifically limited to a veterinarian assigned to supervise Veterinary Services programs in a specific State or States which have been designated as an "Area." In order to create greater flexibility in the event of possible future redesignations and changes within the Veterinary Services organization, the Department has decided to eliminate the word "Area" from the definition and to define the term "Veterinarian in Charge" instead (see § 11.1(g)).

Several comments were critical of the definition of "Horse Show" and "Horse Exhibition" for excepting such events as rodeos, parades, trail rides and races, or similar events, where speed is the prime factor. The intent of the Department in defining these terms was to separate those events where the primary purpose is to show or exhibit a horse or horses from those events where speed and endurance of a horse over a measured distance is the primary purpose. Furthermore, the Department finds that any practice which alters the gait of a horse for the purposes of enhancing its ability to compete in a show or exhibition would have the opposite effect in events where speed and endurance determines the winner. Therefore, the Department finds no basis to include rodeos, parades, trail rides, or races in § 11.1(m) or § 11.1(n).

The American Horse Council suggested that the use of the term "animated gaits" be included to restrict the kind of horses affected by the definition of "Horse," "Horse Show," "Horse Exhibition," "Horse Sale," or "Horse Auction." Since the proposed regulations did not include a definition for "animated gaits," the Department is of the opinion that the inclusion of such a restrictive term in this final rulemaking without having first given all interested persons an opportunity to comment would not satisfy the intent or the provisions of Administrative Procedure Act regarding public participation in rulemaking. The Department believes that the inclusion of the term "animated gaits" in the definitions would be of such significance to the kinds and numbers of persons affected and regulated that it would be necessary to publish such inclusion as a proposal in order to elicit responses and comments prior to final rulemaking. The Department also needs additional time to evaluate this suggestion. Therefore, the possible incorporation of the term "animated gaits" in the regulations is being taken

under consideration by the Department and may be incorporated in future rulemaking.

The Department proposed a definition for "Action Device," to mean "any boot, collar, chain, roller, or other device which encircles or is placed upon the lower extremity of the leg of a horse." Several comments criticized this definition since it could include fixed protective devices such as heel boots, skid or sliding boots, hinged quarter boots, and other similar fixed devices. The Department recognizes the validity of such comments, since devices which are fixed are not considered capable of a rotating or sliding action resulting in friction or impact on the hoof, coronet band, or pastern area of the horse. Therefore, a qualifying statement regarding fixed protective devices has been included in the definition of "Action Device."

Several comments expressed concern that Department employees, during the procedure of inspecting horses at horse shows or exhibitions and horse sales or auctions, would be authorized to require the removal of shoes and pads from horses and cited the possible problems associated with the removal of the shoes and pads and the subsequent required reshoeing. The Department would point out that the authority to require the removal of shoes, pads, or any other equipment has been a part of the Horse Protection regulations since their inception and that Department employees have utilized this authority with discretion and for good reasons. The Department believes that there will continue to be situations wherein removal of shoes and pads will be the most appropriate inspection method to determine if a horse is sore. Therefore, the reference to removal of shoes and pads found in the definition of the term "Inspection" will remain. The comments further indicated that the Department should allow the owner or custodian of the horse, which is to have its shoes and pads removed, to select the person who removes such shoes and pads. Other comments also indicated a need to have an 8-hour holding period following the determination to remove shoes and pads before actual removal could be initiated. Long delays, intended or unintended, could result if the horse's owner or custodian demanded that the services of a person located miles away be utilized to perform the required removal of shoes, pads, and other equipment. The Department believes that persons who are qualified to perform the removal of shoes and pads are readily available during horse shows or exhibitions and horse sales or auctions. Therefore, the Department will not incorporate language in the regulations concerning the selection of persons who are to remove shoes or pads. The Department also finds no basis to delay the removal of shoes, pads, or other equipment from a horse for 8 hours before an inspection can be completed since the purpose of the inspection is to determine if a horse is sore at a point in time relative to either its impending exhibition or sale or to its having completed exhibition or sale. It is determined that such delays would place undue restrictions on the Department's inspection procedures which could be used to vitiate the purpose of the Horse Protection Act, and are therefore not warranted.

One horse industry association indicated that the Department should pay for the removal of shoes, pads, and other equipment which Department inspectors may require to be removed and should pay for the replacement of such equipment. This cannot be done since the Department finds that the law makes no specific provision for the government to bear the expense incurred by any owner when presenting an animal to Department personnel for inspection to determine compliance with the requirements of the law.

The Department proposed that the definition for "Sponsoring Organization" shall mean "any person under whose auspices a horse show, horse exhibition, horse sale or horse auction is conducted." Several comments indicated that the proposed definition is vague and too broad in its scope, particularly since it could include horse industry organizations or associations which affiliate with certain horse shows and exhibitions or horse sales and auctions. In order to clarify this definition, and to limit it in its scope, the Department is redefining "Sponsoring Organization" to mean any person under whose immediate auspices and responsibility a horse show, horse exhibition, horse sale or horse auction is conducted.

Some comments expressed concern over the all-encompassing definition of the term "Exhibitor." There was particular concern over the possible legal liabilities of parties involved in lease-purchase agreements. The Department feels that such definition is necessary to properly identify the responsible parties involved in the showing or selling of a horse.

Several of the comments also objected to the use of the wording "* * *" to inspect horses to detect and diagnose soring * * *," in proposed §§ 11.1(v) and 11.7(a), with reference to DQP's who are not Doctors of Veterinary Medicine and should, therefore, not be medically qualified to diagnose a sore horse. However, it is the Department's opinion that a non-veterinarian DQP who is properly certified in accordance with § 11.7 of the regulations should be fully qualified to detect and determine whether a horse is sore, as that term is defined by the Act. As for the particular language of the proposed regulations which was objected to, it was taken directly from the Act.

As proposed, the definition of "Horse Industry Organization or Association" means an organized group of people engaged in any way with the showing, exhibiting, sale, auction, registry, or promotion of horses. One comment criticized this proposed definition as vague and nonspecific in its meaning. One common dictionary definition of association is "an organization of people with a common purpose and having a formal structure." The Department meant to cover this type of organization when promulgating the regulations. Therefore, for the sake of clarity, the term "formal structure" will be added to the proposed definition, and the resulting meaning of "Horse Industry Organization or Association" should be sufficient for the purposes of these regulations.

Horse industry representatives were critical of the proposed definitions of "Lubricant" which restricts the substances that are indicated as lubricants, i.e., "mineral oil, glycerine or petrolatum, or mixtures exclusively thereof." These industry representatives desired that the definition of the term "lubricant" be expanded to include other lubricating substances as well as therapeutic agents or cosmetic grooming aids. It is recognized however, that dyes and other grooming aids would aid in camouflaging signs of scarring or even soring. These substances, as well as lubricants, can act as vehicles for soring agents. The Department is thus limiting the permitted kinds of lubricating agents to those which are clear and transparent; are relatively inexpensive, and readily available; and are controlled by management. Such limitations provide a fair and equitable method for the use of lubricants by all entries in a horse show or exhibition and horse sale or auction. To allow additional substances to be used for lubricating purposes would create problems of control and would consequently enhance the opportunity for unscrupulous persons to utilize soring chemicals. However, the Department has provided in the proposed regulations that other chemicals or substances may be applied, injected, or otherwise used in the therapeutic treatment of a horse by or under the supervisions of a person licensed to practice veterinary medicine in the State in which such treatment is administered.

With respect to the definition of "sore" when used to describe a horse, there were several comments objecting to the term "can reasonably be expected to suffer, physical pain or distress, inflamation, or lameness when walk-

ing, trotting, or otherwise moving" as being vague. Further, one comment desired to delete the word "trotting" from the definition of "sore." The Department has adopted the language used in the Horse Protection Act Amendments of 1976 to define "sore" when used to describe a horse and is of the opinion that, within the context of its usage in the regulations, the term is sufficiently clear so as to be understandable and enforceable.

DESIGNATED QUALIFED PERSONS

Section 4 of the Horse Protection Act as amended (15 U.S.C. 1823) states that the Secretary shall prescribe by regulation requirements for the appointment by the management of any horse show, horse exhibition, or horse sale or auction of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing the Act. The intent of Congress and the purpose of this provision is to encourage horse industry self-regulatory activity and to allow the management of any horse show, horse exhibition, horse sale, or horse auction to have the benefit of certain limits upon its liability under the Act if it employs any such qualified persons, hereinafter referred to as designated qualified persons or DQP's, to detect and diagnose soring and to otherwise inspect horses for the purpose of enforcing the Act.

Many of the comments received objected to the DQP's being appointed by the management of horse shows, horse exhibitions, horse sales, and horse auctions, and stated that such DQP's should be appointed by the licensing organization or association. This appears to be a reasonable and sensible suggestion. However, Section 4(c) of the Act states that, "The Secretary shall prescribe by regulation requirements for the appointment *by the management* * * *." The Department must therefore abide by the wording of the Act. Such wording does not prevent any licensing organization or association from establishing a policy of appointing DQP's when the services of such DQP's are requested by the management of any horse show, horse exhibition, horse sale, or horse auction. The Department anticipates that horse industry organizations or associations with a certified DQP program may initiate such a policy under these regulations.

One comment indicated that the status of Doctors of Veterinary Medicine who wish to become licensed DQP's was not clear in the proposed regulations, especially in the area of licensing and accountability. Clarification has been made in this regard. Doctors of Veterinary Medicine who meet the qualifying criteria will be exempted from the formal training requirements indicated in § 11.7(b), but will still be licensed through, and responsible to, a licensing horse industry organization or association.

Several other comments indicated that the proposed DQP requirements were not adequate to assure that an applicant for a DQP appointment was sufficiently experienced in horses and horsemanship. It should be pointed out that the proposed regulations, as well as this final rulemaking, contain a provision which requires that an association's or organization's formal request for DQP program certification, which must be submitted to the Department, must contain, among other things, the criteria to be used to select DQP candidates. This leaves to the Department the final decision regarding the adequacy of such criteria and should constitute an adequate safeguard regarding athe ability of applicants for DQP programs.

Concern about the proposed training period for DQP's was expressed in such comments as, "the training was too long"; "the training was too short"; "the training requirements were vague and should be more specific"; "too much leeway is allowed for the individual qualifying programs"; "training should be limited to one day"; and "training time should be doubled." The Department is of the opinion that all of these comments have some merit. However, establishing a uniform program with minimum requirements and sufficient flexibility, so as to not be overly restrictive, remains the basic problem. The Department has, therefore, left the proposed training requirements essentially intact, but has added two additional requirements. These are 1 hour of classroom instruction on recordkeeping and reporting requirements and procedures, and the requirement that a DQP applicant must satisfactorily work two horse shows, exhibitions, sales or auctions, as an apprentice, before being licensed as a DQP. A change has also been made in the continuing education requirement for DQP's (§ 11.7(b)(5)) to require that such program shall consist of not less than 4 hours of instruction per year.

Three comments suggested that the DQP program should be operated by the Department and the applicants should by trained and licensed directly by the Department. The Department has neither the personnel nor the funds to carry out such an extensive undertaking and feels that the DQP program should remain in the realm of industry self-regulation.

Another comment suggested that licensed DQP's should not be limited to working for one association or organization, but should be able to be approved by any authorizing organization they desire. Nothing in the proposed or final regulations prevents this type of operation or cooperation by licensing organizations or associations. The Department is of the opinion that this is logical and desirable, but will leave the responsibility for such operation and cooperation to the licensing organizations and associations.

Four of the comments were opposed to the entire concept of DQP's and stated that the program was unworkable, unnecessary, expensive, and should be dropped. Section 4 of the Act directs the Secretary to establish regulations and requirements for the appointment of persons qualified to inspect horses for soring. Without a program to assure that such persons are in fact qualified to perform this function, the intent and purpose of the Act would not be satisfied. Additionally, the Department believes that the establishment and proper operation of a DQP program will be a valuable tool to the horse industry in its self-regulating efforts to stop soring.

Two comments received were concerned with the performance and conduct of DQP's and the methods of removing DQP's who do not properly carry out their duties and functions. The Department feels that methods of monitoring supervision, and disciplinary procedures are primarily the responsibility of the licensing organizations or associations and should be properly established and maintained by them. Should the licensing organization or association fail to establish or properly carry out such monitoring, supervision, or disciplinary procedures, the Department may revoke certification of the DQP program of that organization or association. Such revocation will also result in the expiration of the DQP license issued under the program unless they are transferred to another program which is certified. Furthermore, the Act makes provision for disqualification by the Secretary, after notice and opportunity for a hearing, of persons to make detection, diagnosis, or inspection for compliance with the Act. The Act also provides that any person who is so disqualified shall be prohibited, by regulation, from being appointed to make such detection, diagnosis, or inspection.

Six comments received from the Walking Horse industry objected to the wording used in § 11.7(d)(vii) which required, "A detailed description of all the DQP's findings and the nature or other reason for disqualifying or excusing or recommending the horse be excused or disqualified, including said DQP's opinion as to what caused the condition upon which the decision to disqualify or excuse or recommend disqualifying or excusing said horse was based." The comments indicated that most DQP's would be "lay

persons" and not veterinarians and, therefore, could not give valid opinions as to what caused the condition which resulted in disqualification of the horse. Further concern was that such wording would make the DQP an agent of the Department and result in the DQP's being used to testify against members of the organization or association which he represents. The Act authorizes the Secretary to subpoena the attendance and testimony of witnesses regarding violations of the Act or regulations. Therefore, at proceedings regarding violations of the Act or regulations, such DQP's could be required to testify with regard to their inspections. For the sake of clarity, the wording of § 11.7(d)(1)(vii) is changed to read "A detailed description of all of the DQP's findings and the nature of the alleged violation, or other reason for disqualifying or excusing the horse, including said DQP's statement regarding the evidence or facts upon which the decision to disqualify or excuse said horse was based."

Three of the comments received indicated that the recordkeeping and reporting requirements of proposed § 11.7(d)(1)(ix) required a dual reporting procedure, whereby the DQP must submit identical information to the Department and to the licensing organization or association, which then must submit the same information to the Department on a monthly basis. The Department agrees that such a dual reporting system appears to be unnecessary and burdensome at this time. Therefore, § 11.7(d)(1)(ix) is changed to require the DQP to report the required information to the licensing organization or association only, which will then transmit this information to the Department on a monthly basis.

One comment received stated that the Department should not allow the licensing as a DQP, of anyone that has been convicted of any violation of the Act, or assessed any civil penalty, since the Horse Protection Act was originally passed in 1970. The Department can understand and sympathize with such feelings. However, the Department, also believes that people do not remain static, but change due to their experiences and changing circumstances. To deny these people the opportunity to become a licensed DQP because of a past mistake, would not only be unwarranted, but would be vindictive. It would also deprive the industry of the services of some very valuable people. For this reason, the Department will not penalize those persons found in violation of the Act of 1970. However, persons found in violation of the Act, as amended in 1976, should, in the Department's opinion, be treated differently. This is reflected in § 11.7(c)(4) of these regulations wherein such persons shall not be allowed to be licensed as DQP's for a period of at least 2 years following the first violation, and for a period of at least 5 years following the second violation, or any subsequent violation.

One comment received suggested that DQP's should be prohibited from inspecting any shows or sales which involve any animals owned or exhibited by their family or employers, or any horse that they have trained. The Department concurs in part with this suggestion in regard to family members and employers, but feels that to include horses that may have been trained by such DQP's would not only be unduly restrictive, but would be impossible to enforce. Therefore, the Department has added to § 11.7(d)(7) a statement that DQP's may not inspect any horse show, exhibition, sale or auction in which a horse owned by a member of his family or his employer are in competition, or are being sold.

The majority of the comments objected to requiring the use of DQP's at all types of shows or sales and for all breeds of horses, and indicated that DQP's should be used only for those shows or sales which include Tennessee Walking Horses, the breed which is customarily sored. The Horse Protection Act applies to all breeds of horses and to all types of horse shows, exhibitions, sales and auctions, and the Department has the authority to inspect any horse at any horse show, exhibition, sale or auction. The Department has inspected many breeds of horses and many types of shows and sales in the past, and will continue to inspect many types of shows and sales, and many breeds of horses in the future. However, the comments regarding restricting the use of DQP's to those sales and shows involving Tennessee Walking Horses are basically valid. Historically, the Department has found the practices of soring to alter a horse's gait to be limited to Tennessee Walking Horses and to a much lesser extent, racking horses. However, the proposed regulations did not place any restrictions as to the type of horse show or exhibition and horse sale or auction, or the kinds of horses to be inspected by licensed DQP's. Therefore, the Department feels that the inclusion of such restrictions in the final rulemaking without having first given all interested persons an opportunity to comment would not satisfy the intent or the provisions of the Administrative Procedures Act. This is because the inclusion of such restrictions would be of such significance to the kinds and numbers of persons affected and regulated as to be cause for publication as a proposal in order to elicit responses and comments from the public before promulgating final rulemaking. The Department will therefore take the comments under consideration with the possibility of incorporating them into the regulations at a later date.

Accordingly, Part 11 of Subchapter A, Chapter I, Title 9 of the Code of Federal Regulations, is amended in the following respects:

1. The Table of Contents cited in Part 11—Horse Protection Regulations is amended to read as follows:

**PART 11—HORSE PROTECTION REGULATIONS**

Sec.
11.1 Definitions.
11.2 Prohibitions concerning exhibitors.
11.3 Scar rule.
11.4 Inspection and detention of horses.
11.5 Access to premises and records.
11.6 Inspection space and facility requirements.
11.7 Certification and licensing of designated qualified persons (DQP's).
11.20 Responsibilities and liabilities of managment.
11.21 Records required, and disposition thereof.
11.22 Inspection of records.
11.24 Reporting by management.
11.40 Prohibitions and requirements concerning persons involved in transportation of certain horses.
11.41 Reporting required of horse industry organizations and associations.

2. § 11.1 (9 CFR 11.1) is amended to read as follows:

**§ 11.1 Definitions.**

For the purpose of this part, unless the context otherwise requires, the following terms shall have the meanings assigned to them in this section. The singular form shall also impart the plural and the masculine form shall also impart the feminine. Words of art undefined in the following paragraphs shall have the meaning attributed to them by trade usage or general usage as reflected by definition in a standard dictionary, such as "Webster's."

(a) "Act" means the Horse Protection Act of 1970 (Public Law 91-540) as amended by the Horse Protection Act Amendments of 1976 (Public Law 94-360), 15 U.S.C. 1821 *et seq.*, and any legislation amendatory thereof.

(b) "Department" means the United States Department of Agriculture.

(c) "Secretary" means the Secretary of Agriculture or anyone who has heretofore or may hereafter be delegated authority to act in his stead.

(d) "Administrator" means the Administrator of the Animal and Plant Health Inspection Service or any other official of the Department to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

(e) "Deputy Administrator" means the Deputy Administrator for Veterinary Services or any other official of

Veterinary Services to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(f) "Veterinary Services" means the office of the Animal and Plant Health Inspection Service to which responsibility is assigned for the administration of the Act.

(g) "Veterinarian in Charge" means the Veterinary Services veterinarian who is assigned by the Deputy Administrator to supervise and perform official duties of Veterinary Services under the Act in a specified State or States.[1]

(h) "Veterinary Services Show Veterinarian" means the Veterinary Services Doctor of Veterinary Medicine, responsible for the immediate supervision and conduct of the Department's activities under the Act at any horse show, horse exhibition, horse sale or horse auction.

(i) "Veterinary Services representative" means any employee of Veterinary Services, or any officer or employee of any State agency who is authorized by the Deputy Administrator to perform inspections or any other functions authorized by the Act, including the inspection of the records of any horse show, horse exhibition, horse sale or horse auction.

(j) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(k) "Person" means any individual, corporation, company, association, firm, partnership, society, organization, joint stock company, or other legal entity.

(l) "Horse" means any member of the species *Equus caballus.*

(m) "'Horse Show" means a public display of any horses, in competition, except events where speed is the prime factor, rodeo events, parades, or trail rides.

(n) "Horse Exhibition" means a public display of any horses, singly or in groups, but not in competition, except events where speed is the prime factor, rodeo events, parades, or trail rides.

(o) "Horse Sale or Horse Auction" means any event, public or private, at which horses are sold or auctioned, regardless of whether or not said horses are exhibited prior to or during the sale or auction.

(p) "Action Device" means any boot, collar, chain, roller, or other device which encircles or is placed upon the lower extremity of the leg of a horse in such a manner that it can either rotate around the leg, or slide up and down the leg so as to cause friction, or which can strike the hoof, coronet band or fetlock joint.

(q) "Inspection" means the examination of any horse and any records pertaining to any horse by use of whatever means are deemed appropriate and necessary for the purpose of determining compliance with the Act and regulations. Such inspection may include, but is not limited to, visual examination of a horse and records, actual physical examination of a horse including touching, rubbing, palpating and observation of vital signs, and the use of any diagnostic device or instrument, and may require the removal of any shoe, pad, action device, or any other equipment, substance or paraphernalia from the horse when deemed necessary by the person conducting such inspection.

(r) "Sponsoring Organization" means any person under whose immediate auspices and responsibility a horse show, horse exhibition, horse sale, or horse auction is conducted.

(s) "Show Manager" means the person who has been delegated primary authority by a sponsoring organization for managing a horse show, horse exhibition, horse sale or horse auction.

(t) "Management" means any person or persons who organize, exercise control over, or administer or are responsible for organizing, directing, or administering any horse show, horse exhibition, horse sale or horse auction and specifically includes, but is not limited to, the sponsoring organization and show manager.

(u) "Exhibitor" means (1) any person who enters any horse, any person who allows his horse to be entered, or any person who directs or allows any horse in his custody or under his direction, control or supervision to be entered in any horse show or horse exhibition; (2) any person who shows or exhibits any horse, any person who allows his horse to be shown or exhibited, or any person who directs or allows any horse in his custody or under his direction, control, or supervision to be shown or exhibited in any horse show or horse exhibition; (3) any person who enters or presents any horse for sale or auction, any person who allows his horse to be entered or presented for sale or auction, or any person who allows any horse in his custody or under his direction, control, or supervision to be entered or presented for sale or auction in any horse sale or horse auction; or (4) any person who sells or auctions any horse, any person who allows his horse to be sold or auctioned, or any person who directs or allows any horse in his custody or under his direction, control, or supervision to be sold or auctioned.

(v) "Designated Qualified Person" or "DQP" means a person meeting the requirements specified in § 11.7 of this part who has been licensed as a DQP by a horse industry organization or association having a DQP program certified by the Department and who may be appointed and delegated authority by the management of any horse show, horse exhibition, horse sale or horse auction under Section 4 of the Act to detect or diagnose horses which are sore or to otherwise inspect horses and any records pertaining to such horses for the purposes of enforcing the Act.

(w) "Horse Industry Organization or Association" means an organized group of people, having a formal structure, who are engaged in the promotion of horses through the showing, exhibiting, sale, auction, registry, or any activity which contributes to the advancement of the horse.

(x) "Lubricant" means mineral oil, glycerine or petrolatum, or mixtures exclusively thereof, that is applied to the limbs of a horse solely for protective and lubricating purposes while the horse is being shown or exhibited at a horse show, horse exhibition, horse sale or horse auction.

(y) "Sore" when used to describe a horse means:

(1) an irritating or blistering agent has been applied, internally or externally by a person to any limb of a horse,

(2) any burn, cut, or laceration has been inflicted by a person on any limb of a horse,

(3) any tack, nail, screw, or chemical agent has been injected by a person into or used by a person on any limb of a horse, or

(4) any other substance or device has been used by a person on any limb of a horse or a person has engaged in a practice involving a horse, and, as a result of such application, infliction, injection, use, or practice, such horse suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of a horse by or under the supervision of a person licensed to practice veterinary medicine in the State in which such treatment was given.

3. The heading for § 11.2 will remain unchanged.

4. A new heading for § 11.3 (9 CFR 11.3) is added to read as follows:

**§ 11.3 Scar rule.**

5. The heading of § 11.4 (9 CFR 11.4) is amended to read as follows:

[1] Information as to the name and address of the Veterinarian in Charge for the State or States concerned can be obtained by writing to the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

§ 11.4 Inspection and detention of horses.

6. The heading of § 11.5 (9 CFR 11.5) is amended to read as follows:

§ 11.5 Access to premises and records.

7. A new heading for § 11.6 (9 CFR 11.6) is added to read as follows:

§ 11.6 Inspection space and facility requirements.

8. A new § 11.7 (9 CFR 11.7) is added to read as follows:

§ 11.7 Certification and licensing of designated qualified persons (DQP's).

(a) *Basic qualifications of DQP applicants.* DQP's holding a valid, current DQP license issued in accordance with this Part may be appointed by the management of any horse show, horse exhibition, horse sale, or horse auction, as qualified persons in accordance with section 4(c) of the Act, to inspect horses to detect or diagnose soring and to otherwise inspect horses, or any records pertaining to any horse for the purpose of enforcing the Act. Individuals who may be licensed as DQP's under this part shall be:

(1) Doctors of Veterinary Medicine who are accredited in any State by the United States Department of Agriculture under Part 161 of Chapter I, Title 9 of the Code of Federal Regulations, and who are:

(i) members of the American Association of Equine Practitioners, or

(ii) large animal practitioners with substantial equine experience, or

(iii) knowledgeable in the area of equine lameness as related to soring and soring practices (such as Doctors of Veterinary Medicine with a small animal practice who own, train, judge, or show horses, or Doctors of Veterinary Medicine who teach equine related subjects in an accredited college or school of veterinary medicine). Accredited Doctors of Veterinary Medicine who meet these criteria may be licensed as DQP's by a horse industry organization or association whose DQP program has been certified by the Department under this part without undergoing the formal training requirements set forth in this section.

(2) Farriers, horse trainers, and other knowledgeable horsemen whose past experience and training would qualify them for positions as horse industry organization or association stewards or judges (or their equivalent) and who have been formally trained and licensed as DQP's by a horse industry organization or association whose DQP program has been certified by the Department in accordance with this section.

(b) *Certification requirements for DQP programs.* The Department will not license DQP's on an individual basis. Licensing of DQP's will be accomplished only through DQP programs certified by the Department and initiated and maintained by horse industry organizations or associations. Any horse industry organization or association desiring Department certification to train and license DQP's under the Act shall submit to the Deputy Administrator[2] a formal request in writing for certification of its DQP program and a detailed outline of such program for Department approval. Such outline shall include the organizational structure of such organization or association and the names of the officers or persons charged with the management of the organization or association. The outline shall also contain at least the following:

(1) The criteria to be used in selecting DQP candidates and the minimum qualifications and knowledge regarding horses each candidate must have in order to be admitted to the program.

(2) A copy of the formal training program, classroom and practical, required to be completed by each DQP candidate before being licensed by such horse industry organization or association, including the minimum number of hours, classroom and practical, and the subject matter of the training program. Such training program must meet the following minimum standards in order to be certified by the Department under the Act.

(i) Two hours of classroom instruction on the anatomy and physiology of the limbs of a horse. The instructor teaching the course must be specified, and a resume of said instructor's background, experience, and qualifications to teach such course shall be provided to the Deputy Administrator.[2]

(ii) Two hours of classroom instruction on the Horse Protection Act and regulations and their interpretation. Instructors for this course must be furnished or recommended by the Department. Requests for instructors to be furnished or recommended must be made to the Deputy Administrator[2] in writing at least 30 days prior to such course.

(iii) Four hours of classroom instruction on the history of soring, the physical examination procedures necessary to detect soring, the detection and diagnosis of soring, and related subjects. The instructor teaching the course must be specified and a summary of said instructor's background, experience, and qualifications to teach such course must be provided to the Deputy Administrator.[2]

(iv) Four hours of practical instruction in clinics and seminars utilizing live horses with actual application of the knowledge gained in the classroom subjects covered in (i), (ii), and (iii). Methods and procedures required to perform a thorough and uniform examination of a horse shall be included. The names of the instructors and a resume of their background, academic and practical experience, and qualifications to present such instruction shall be provided to the Deputy Administrator.[2] Notification of the actual date, time, duration, subject matter, and geographic location of such clinics or seminars must be sent to the Deputy Administrator[2] at least 10 days prior to each such clinic or seminar.

(v) One hour of classroom instruction regarding the DQP standards of conduct promulgated by the licensing organization or association pursuant to paragraph (d)(7) of this section.

(vi) One hour of classroom instruction on recordkeeping and reporting requirements and procedures.

(3) A sample of a written examination which must be passed by DQP candidates for successful completion of the program along with sample answers and the scoring thereof, and proposed passing and failing standards.

(4) The criteria to be used to determine the qualifications and performance abilities of DQP candidates selected for the training program and the criteria used to indicate successful completion of the training program, in addition to the written examination required in paragraph (b)(3) of this section.

(5) The criteria and schedule for a continuing education program and the criteria and methods of monitoring and appraising performance for continued licensing of DQP's by such organization or association. A continuing education program for DQP's shall consist of not less than 4 hours of instruction per year.

(6) The methods to be used to insure uniform interpretation and enforcement of the Horse Protection Act and regulations by DQP's and uniform procedures for inspecting horses for compliance with the Act and regulations; and,

(7) Standards of conduct for DQP's promulgated by the organization or association in accordance with paragraph (d)(7) of this section.

(8) A formal request for Department certification of the DQP program.

The horse industry organizations or associations that have formally requested Department certification of their DQP training, enforcement, and maintenance program will receive a

[2]Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, 6505 Belcrest Road, Room 703, Hyattsville, MD 20782.

[2]Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, 6505 Belcrest Road, Room 703, Hyattsville, MD 20782.

formal notice of certification from the Department, or the reasons, in writing, why certification of such program cannot be approved. A current list of certified DQP programs and licensed DQP's will be published in the FEDERAL REGISTER at least once each year, and as may be further required for the purpose of deleting programs and names of DQP's that are no longer certified or licensed, and of adding the names of programs and DQP's that have been certified or licensed subsequent to the publication of the previous list.

(c) *Licensing of DQP's.* Each horse industry organization or association receiving Department certification for the training and licensing of DQP's under the Act shall:

(1) Issue each DQP licensed by such horse industry organization or association a numbered identification card bearing the name and personal signature of the DQP, a picture of the DQP, and the name and address, including the street address or post office box and zip code, of the licensing organization or association;

(2) Submit a list to the Deputy Administrator [2] of names and addresses including street address or post office box and zip code, of all DQP's that have successfully completed the certified DQP program and have been licensed under the Act and regulations by such horse industry organization or association;

(3) Notify the Department of any additions or deletions of names of licensed DQP's from the licensed DQP list submitted to the Department or of any change in the address of any licensed DQP or any warnings and license revocations issued to any DQP licensed by such horse industry organization or association within 10 days of such change;

(4) Not license any person as a DQP if such person has been convicted of any violation of the Act or regulations occurring after July 13, 1976, or paid any fine or civil penalty in settlement of any proceeding regarding a violation of the Act or regulations occurring after July 13, 1976, for a period of at least 2 years following the first such violation, and for a period of at least 5 years following the second such violation and any subsequent violation;

(5) Not license any person as a DQP until such person has attended and worked two recognized or affiliated horse shows, horse exhibitions, horse sales, or horse auctions as an apprentice DQP and has demonstrated the ability, qualifications, knowledge and integrity required to satisfactorily execute the duties and responsibilities of a DQP;

(6) Not license any person as a DQP if such person has been disqualified by the Secretary from making detection, diagnosis, or inspection for the purpose of enforcing the Act, or if such person's DQP license is canceled by another horse industry organization or association.

(d) *Requirements to be met by DQP's and Licensing Organizations or Associations.* (1) Any licensed DQP appointed by the management of any horse show, horse exhibition, horse sale, or horse auction to inspect horses for the purpose of detecting and determining or diagnosing horses which are sore and to otherwise inspect horses for the purpose of enforcing the Act and regulations, shall keep and maintain the following information and records concerning any horse which said DQP recommends be disqualified or excused for any reason at such horse show, horse exhibition, horse sale, or horse auction, in a uniform format required by the horse industry organization or association that has licensed said DQP:

(i) The name and address, including street address or post office box and zip code, of the show and the show manager.

(ii) The name and address, including street address or post office box and zip code, of the horse owner.

(iii) The name and address, including street address or post office box and zip code, of the horse trainer.

(iv) The name and address, including street address or post office box and zip code, of the horse exhibitor.

(v) The exhibitors number and class number, or the sale or auction tag number of said horse.

(vi) The date and time of the inspection.

(vii) A detailed description of all of the DQP's findings and the nature of the alleged violation, or other reason for disqualifying or excusing the horse, including said DQP's statement regarding the evidence or facts upon which the decision to disqualify or excuse said horse was based.

(viii) The name, age, sex, color, and markings of the horse; and

(ix) The name or names of the show manager or other management representative notified by the DQP that such horse was or should be excused or disqualified and whether or not such manager or management representative excused or disqualified such horse.

Copies of the above records shall be submitted by the involved DQP to the horse industry organization or association that has licensed said DQP within 72 hours after the horse show, horse exhibition, horse sale, or horse auction is over.

(2) The DQP shall inform the custodian of each horse allegedly found in violation of the Act or its regulations, or disqualified or excused for any other reason, of such action and the specific reasons for such action.

(3) Each horse industry organization or association having a Department certified DQP program shall submit a report to the Department containing the following information, from records required in paragraph (d)(1) of this section and other available sources, to the Department on a monthly basis:

(i) The identity of all horse shows, horse exhibitions, horse sales, or horse auctions that have retained the services of DQP's licensed by said organization or association during the month covered by the report. Information concerning the identity of such horse shows, horse exhibitions, horse sales, or horse auctions shall include:

(A) The name and location of the show, exhibition, sale, or auction.

(B) The name and address of the manager.

(C) The date or dates of the show, exhibition, sale, or auction.

(ii) The identity of all horses at each horse show, horse exhibition, horse sale, or horse auction that the licensed DQP recommended be disqualified or excused for any reason. The information concerning the identity of such horses shall include:

(A) The registered name of each horse.

(B) The name and address of the owner, trainer, exhibitor, or other person having custody of or responsibility for the care of each such horse disqualified or excused by the DQP.

(4) Each horse industry organization or association having a Department certified DQP program shall provide, by certified mail if personal service is not possible, to the trainer and owner of each horse allegedly found in violation of the Act or its regulations or otherwise disqualified or excused for any reason by one of said organization or association DQP's at any horse show, horse exhibition, horse sale, or horse auction, the following information;

(i) The name and date of the show, exhibition, sale, or auction.

(ii) The name of the horse and the reason why said horse was excused, disqualified, or alleged to be in violation of the Act or its regulations.

(5) Each horse industry organization or association having a Department certified DQP program shall provide each of its licensed DQP's with a current list of all persons that have been disqualified by order of the Secretary from showing or exhibiting any horse, or judging or managing any horse show, horse exhibition, horse sale, or horse auction. The Department will

[2] Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, 6505 Belcrest Road, Room 703, Hyatttsville, MD 20782.

make such list available, on a current basis, to organizations and associations maintaining a certified DQP program.

(6) Each horse industry organization or association having a Department certified DQP program shall develop and provide a continuing education program for licensed DQP's which provides not less than 4 hours of instruction per year to each licensed DQP.

(7) Each horse industry organization or association having a Department certified DQP program shall promulgate standards of conduct for its DQP's, and shall provide administrative procedures within the organization or association for initiating, maintaining, and enforcing such standards. The procedures shall include the causes for and methods to be utilized for canceling the license of any DQP who fails to properly and adequately carry out his duties. Minimum standards of conduct for DQP's shall include the following:

(i) A DQP shall not exhibit any horse at any horse show or horse exhibition, or sell, auction, or pruchase any horse sold at a horse sale or horse auction at which he or she has been appointed to inspect horses;

(ii) A DQP shall not inspect horses at any horse show, horse exhibition, horse sale or horse auction in which a horse or horses owned by a member of the DQP's immediate family or the DQP's employer are competing or are being offered for sale;

(iii) A DQP shall follow the uniform inspection procedures of his certified organization or association when inspecting horses; and

(iv) A DQP shall disqualify from competition or sale any horse found in his opinion, to be in violation of the Horse Protection Act or regulations.

(e) *Prohibition of appointment of certain persons to perform duties under the Act.* The management of any horse show, horse exhibition, horse sale, or horse auction shall not appoint any person to detect and diagnose horses which are sore or to otherwise inspect horses for the purpose of enforcing the Act, if that person:

(1) Does not hold a valid, current DQP license issued by a horse industry organization or association having a DQP program certified by the Department.

(2) Has had his DQP license canceled by the licensing organization or association.

(3) Is disqualified by the Secretary from performing diagnosis, detection, and inspection under the Act, after notice and opportunity for a hearing,[3] when the Secretary finds that such person is unfit to perform such diagnosis, detection, or inspection because he has failed to perform his duties in accordance with the Act or regulations, or because he has been convicted of a violation of any provision of the Act or regulations occurring after July 13, 1976, or has paid any fine or civil penalty in settlement of any proceeding regarding a violation of the Act or regulations occurring after July 13, 1976.

(f) *Cancellation of DQP license.* Each horse industry organization or association having a DQP program certified by the Department shall issue a written warning to any DQP whom it has licensed who violates the rules, regulations, by-laws, or standards of conduct promulgated by such horse industry organization or association pursuant to this section, or who carries out his duties and responsibilities in a less than satisfactory manner, and shall cancel the license of any DQP after a second violation. Upon cancellation of his DQP license, the DQP may, within 30 days thereafter, request a hearing before a review committee of not less than three persons appointed by the licensing horse industry organization or association. If the review committee sustains the cancellation of the license, the DQP may appeal the decision of such committee to the Deputy Administrator within 30 days from the date of such decision, and the Deputy Administrator shall make a final determination in the matter. If the Deputy Administrator finds, after providing the DQP whose license has been canceled with a notice and an opportunity for a hearing,[3] that there is sufficient cause for the committee's determination regarding license cancellation, he shall issue a decision sustaining such determination. If he does not find that there was sufficient cause to cancel the license, the licensing organization or association shall reinstate the license.

(2) Each horse industry organization or association having a Department certified DQP program shall cancel the license of any DQP licensed under its program who has been convicted of any violation of the Act or regulations or of any DQP who has paid a fine or civil penalty in settlement of any alleged violation of the Act or regulations if such alleged violation occurred after July 13, 1976.

(g) *Revocation of DQP program certification of horse industry organizations or associations.* Any horse industry organization or association having a Department certified DQP program which fails to comply with the requirements contained in this section may have such certification of its DQP program revoked unless, upon written notification from the Department of such failure to comply with the requirements in this section, such organization or association takes immediate action to rectify such failure and takes appropriate steps to prevent a recurrence of such non-compliance within the time period specified in the Department notification, or otherwise adequately explains such failure to comply. Any horse industry organization or association whose DQP program certification has been revoked may appeal such revocation to the Deputy Administrator[3] in writing within 30 days after the date of such revocation and, if requested, shall be afforded an opportunity for a hearing.[3] All DQP licenses issued by a horse industry organization or association whose DQP program certification has been revoked shall expire 30 days after the date of such revocation, or 15 days after the date the revocation becomes final after appeal, unless they are transferred to a horse industry organization or association having a program currently certified by the Department.

9. The heading of § 11.20 (9 CFR 11.20) is amended to read as follows:

**§ 11.20 Responsibilities and liabilities of management.**

10. The heading for § 11.21 will remain unchanged.

11. The heading for § 11.22 will remain unchanged.

12 § 11.23 (9 CFR 11.23) is deleted.

13. The heading of § 11.24 (9 CFR 11.24) is amended to read as follows:

**§ 11.24 Reporting by management.**

14. The heading of § 11.40 (9 CFR 11.40) is amended to read as follows:

**§ 11.40 Prohibitions and requirements concerning persons involved in transportation of certain horses.**

15. The heading of § 11.41 (9 CFR 11.41) is amended to read as follows:

**§ 11.41 Reporting required for horse industry organizations or associations.**

(Secs. 4, 6, and 9; 84 Stat. 1404; 90 Stat. 916 and 918; (15 U.S.C. 1823, 1825, and 1828); 29 FR 16210, 36 FR 20707.)

It is to the benefit of the public and the regulated industries that these amendments to the regulations be made effective at the earliest practicable date. The changes effected by these regulations will require that horse industry organizations and associations initiate and complete certain programs for Department certification in time for the next horse show season. In view of the foregoing, it is hereby found and determined that good cause exists for making these regulations effective on the date of publication in the FEDERAL REGISTER, and that it would be contrary to the public interest to delay the effective

[3] Hearing would be in accordance with the Uniform Rules of Practice for the Department of Agriculture in Subpart H of Part 1, Subtitle A, Title 7, Code of Federal Regulations (7 CFR 1.130 *et seq.*)

date of these amendments for 30 days after their publication. (Section 553(d), Administrative Procedures Act, 5 U.S.C. 551-559.)

Done at Washington, D.C., this 27th day of December, 1978.

NOTE.—This rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations", and has been designated "significant". An approved Final Impact Analysis Statement has been prepared and is available from the Animal Care Staff, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, telephone Area Code (301) 436-8271.

M. T. GOFF,
*Acting Deputy Administrator,*
*Veterinary Services.*

[FR Doc. 79-287 Filed 1-4-79; 8:45 am]

federal register

FRIDAY, JANUARY 5, 1979
PART VI


# DEPARTMENT OF ENERGY

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# FEDERAL LOAN GUARANTEES FOR GEOTHERMAL ENERGY UTILIZATION

## Proposed Rulemaking: Public Hearing

[6450-01-M]

## DEPARTMENT OF ENERGY

[10 CFR Part 790]

### FEDERAL LOAN GUARANTEES FOR GEOTHERMAL ENERGY UTILIZATION

**Proposed Rulemaking: Public Hearing**

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: This proposed regulation revises 10 CFR 790 published on May 26, 1976, to conform with provisions in Title V of the "Department of Energy Act of 1978-Civilian Applications," Pub. L. 95-238 enacted February 25, 1978. Title V contains amendments to the "Geothermal Energy Research, Development, and Demonstration Act of 1974," Pub. L. 93-410, which authorized the establishment of the Geothermal Loan Guaranty Program that had been implemented by the Energy Research and Development Administration (ERDA). On October 1, 1977, the Department of Energy (DOE) pursuant to the Department of Energy Organization Act, Pub. L. 95-91 assumed the functions and the authority of ERDA to execute the Geothermal Loan Guaranty Program. Therefore this proposed regulation implements the transfer to the Secretary of Energy of responsibilities and authorities of ERDA's Administrator pertaining to the Geothermal Loan Guaranty Program. Additionally, this proposed regulation contains other revisions and amendments to the previously published regulations for the Geothermal Loan Guaranty Program that clarify DOE financial policy and remove certain ambiguities identified during the past two years of operating experience. Amendments and revisions to 10 CFR Part 790 are not effective at this time. DOE will accept and process guaranty applications for loans of less than $50,000,000 based on authority contained in Section 508(1) of Pub. L. 95-238 but their approval may be delayed until publication of a modification of the existing regulation which removes the limit specified in Pub. L. 93-410 prior to its amendment by Pub. L. 95-238. Guaranty applications for loans in excess of $50,000,000 will not be accepted until DOE publishes final regulations implementing the Community Impact Assistance provisions authorized in Sec. 205 of Pub. L. 93-410 as amended.

Written comments will be received and public hearings will be held with respect to this proposed rulemaking.

DATES: Written comments must be received on or before March 6, 1979; requests to speak, on or before January 29, 1979; hearing testimony, on or before February 8, 1979; public hearing dates, February 13 and February 21, 1979.

ADDRESSES: Written comments and requests to speak to Department of Energy, Public Hearing Management, Room 2313, Box TX, 2000 M Street, N.W., Washington, D.C. 20461. The hearings will be held on February 13, 1979, at the U.S. Courthouse, Main Post Office Building, 7th and Mission Streets, Courtroom 15, San Francisco, CA, and on February 21, 1979 at the Department of Energy, 2626 West Mockingbird Lane, Dallas, TX.

FOR FURTHER INFORMATION CONTACT:

Lawrence Falick, Department of Energy, Washington, DC 20461 (202) 633-8903.

SUPPLEMENTARY INFORMATION:



### I. Background

On May 26, 1976, ERDA published in the Federal Register (41 FR 21433) a final regulation containing policies, filing procedures and other instructions under which lenders may obtain a Federal guaranty on loans to qualified borrowers related to the commercial development of practicable means to produce, with environmentally acceptable processes, useful energy from geothermal resources. That regulation became effective on June 25, 1976 thereby permitting applications for guarantees on loans for geothermal projects to be submitted to ERDA.

This proposed regulation incorporates many of the changes to the Geothermal Loan Guaranty Program contained in Pub. L. 95-238. The amendments to Pub. L. 95-238, in summary, provide: That the full faith and credit of the United States is pledged to the payment of these guarantees; that DOE can borrow funds from the Department of the Treasury if balances in the Geothermal Resources Development Fund are insufficient to enable DOE to carry out its guaranty and other responsibilities; the authority to assist the borrower in making payment on loan principal; that DOE may complete and operate a plant acquired through default; for loan limitations of $50 million per project and of $200 million per qualified borrower; for clarification on the scope of projects utilizing geothermal energy in direct heat processes; a limitation of 1% on a guaranty fee to be imposed annually on the outstanding guaranteed debt and permits fee collection to be deposited in the Geothermal Resources Development Fund; and, that DOE can reimburse to qualified public agencies and Indian tribes a portion of the interest when a holder of their debt guaranteed under this regulation is required to include that income under Chapter 1 of the Internal Revenue Code.

This proposed regulation contains other revisions and amendments to the previously published regulations for the Geothermal Loan Guaranty Program that clarify DOE financial policy and remove certain ambiguities identified during two years of operating experience. Section 790.36 has been revised to clarify provisions dealing with termination, withdrawal and reduction of a guaranty. Section 790.37, "Default and Demand," has been expanded to provide that holders as well as lenders may make demand for payment in the event of default. Section 790.13, "Deviations" has been added to increase flexibility during program execution. Section 790.12 sets forth the conditions under which loans may be placed through the Federal Financing Bank. Section 790.37(g) provides that in certain situations a joint agreement between DOE and the lender may allow for the lender to liquidate project assets. Comments and opinions on these sections are specifically solicited.

Sec. 509 of Pub. L. 95-238 provides the authority for DOE to make interest differential payments to qualified public organizations. This Section contains an ambiguity by referring to "any guaranty which is issued after the enactment of this subsection, by, or in behalf of, any State, political subdivision, or Indian Tribe...". The word "guaranty" has been used instead of the more usual term "obligation" in referring to the note issued by a qualified public organization as evidence of its debt. The proposed regulation implements this provision in Subsection 790.4(d). Parties having a view on this Subpart as an implementation of Section 509 are specifically requested to provide DOE with comments.

### II. Comment Procedures

#### A. Written Comments

Interested persons are invited to submit written comments with respect to the proposed regulations to Department of Energy, Box TX, Public Hearing Management, Room, 2313, 2000 M Street N.W., Washington, D.C. 20461. The outside of the envelope and documents submitted to DOE should be identified with the designation "Federal Loan Guarantees for Geothermal Energy Utilization." Fifteen copies of all written comments and related information should be submitted in time to be received by DOE by March 6, 1979 in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a state-

ment of confidentiality will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. PUBLIC HEARING

1. *Participation Procedures.* Public hearings on the proposed regulations will be held at 9:30 a.m. on February 13, 1979 at the U.S. Courthouse, Main Post Office Building, 7th and Mission Streets, Courtroom 15, San Francisco, CA, and at 9:30 a.m. on February 21, 1979, at the Department of Energy, 2626 West Mockingbird Lane, Dallas, TX. Any person who has an interest in the proposed regulations or who is a representative of a group or class of persons which has an interest in them may make a written request for an opportunity to make oral presentation. The request should be addressed to Public Hearing Management, Department of Energy, Box TX, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, on or before January 29, 1979. Persons making a request to speak should describe their interest in the proceeding, provide a concise summary of the proposed oral presentation and a phone number where they may be reached. Each person who, in DOE's judgment, proposes to present relevant and material information will be notified by DOE of their participation to be heard before 4:30 p.m., February 2, 1979, and shall be expected to submit 15 copies of the proposed statement to Public Hearing Management, Department of Energy, Box TX, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, on or before February 9, 1979.

2. *Conduct of Hearing.* DOE reserves the right to arrange the schedule of presentations to be heard and to establish procedures governing the conduct of hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard. A DOE official will be designated as presiding officer to chair the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer who will determine whether the question is relevant and material, and whether time limitations permit it to be presented for answer.

Any other procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 2107, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

## III. Additional Information

In accordance with its proposed plan for improving Government Regulations (43 FR 18634, May 1, 1978), DOE has determined that this proposed regulation is significant because Congress regards the accelerated development of geothermal energy to be of widespread concern. Further, geothermal energy development is a significant part of the National Energy Plan for expansion of nonconventional sources of energy. This proposed regulation modifies an existing program, as called for by Pub. L. 95-238, and increases the amount of guarantees which may be made to an individual or for a specific project. However, the total dollar loan guaranty authorization of $300,000,000 for this program was not increased by this legislation and therefore the changes contained herein are not expected to have a major impact on the availability of geothermal energy over the program already in existence. DOE has, therefore, determined that the enhanced program as implemented by this proposed regulation will to have a major economic impact over the existing program and that the preparation of the economic regulatory analysis, called for by DOE's procedure on Improving Energy Regulations, is not necessary.

This proposed regulation which amends and revises existing program regulations has been reviewed in accordance with existing DOE policy that implements the National Environmental Policy Act of 1969 and has been determined not to be of a nature that requires the preparation of an Environmental Impact Statement pursuant to the requirements of the National Environmental Policy Act of 1969.

10 CFR Part 790 is proposed to be revised to read as follows:

## Part 790—The Geothermal Loan Guaranty Program

### Subpart A—General Provisions

Sec.



### Subpart B—Applications



### Subpart C—Servicing and Closing



AUTHORITY: Title II of the Geothermal Energy Research, Development, and Demonstration Act of 1974, Pub. L. 93-410; Department of Energy Organization Act, Pub. L. 95-91; Title V of the Department of Energy Act of 1978—Civilian Applications, Pub. L. 95-238.

### Subpart A General Provisions

§ 790.1 Purpose.

The purpose of this regulation is to set forth policies and procedures under which the Department of Energy (DOE) will issue a Federal guaranty on loans related to the commercial development of practicable means to produce, in an environmentally acceptable manner, energy from geothermal resources.

§ 790.2 Objectives.

The objectives of the Federal geothermal loan guaranty program are: (a) To encourage and assist the private and public sectors to accelrate development of geothermal resources with environmentally acceptable processes by enabling the Secretary of the Department of Energy in the exercise of reasonable judgment, to minimize a lender's financial risk that is associated with the development of new geo-

thermal resources and technology; (b) to develop normal borrower-lender relationships which will in time encourage the flow of credit for the utilization of geothermal resources without the need for Federal assistance; and (c) to enhance competition and to encourage new entrants into the geothermal market.

§ 790.3 Effective date. [Reserved]

§ 790.4 Eligible loans and priorities.

(a) The Secretary may approve agreements to guaranty, and commitments to guaranty, lenders against the loss of principal and accured interest on loans made by such lenders to qualified borrowers. Any such agreements shall be made subject to the application of priorities and preferrential considerations for guarantees as set forth in paragraph (b) of this section and subject to criteria in § 790.6. Such agreements may be entered into only for the purposes of:

(1) Determination and evaluation of the commercial potential of geothermal resources;

(2) Research and development with respect to geothermal extraction and utilization technologies, including but not limited to the mitigation of adverse environmental effects;

(3) Acquisition of rights in geothermal resources;

(4) Development, construction, and operation of facilities for the demonstration or commercial production of energy through the use of geothermal resources; or,

(5) Construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible for loan guaranty assistance under this regulation.

(b) In complying with the objectives of the Geothermal Loan Guaranty Program, the Secretary will give first priority consideration to those applications for projects having a plan of operations which shows substantial promise of the prompt development of useful energy from geothermal resources. Second priority consideration will be given to those applications for projects designed to demonstrate or utilize new technological advances. Third priority will be given to projects that will demonstrate or exploit the commercial potential of new geothermal resource areas. The Secretary will give lower priority consideration to applications involving projects that initially propose geological and geophysical exploration, or the acquisition of land or leases. Within each category of priority as described herein, preferential consideration will be given to (1) applications in which the lender is providing a portion of the loan for which a guaranty is not requested, (2) projects to be carried out by small public and private utilities and small businesses, and (3) projects from which the Federal Government will receive royalty payments.

(c) Not less than ten percent of the amount available for loan guarantees during a fiscal year will be allocated to guarantees on loans to small public and private utilities and small businesses, as defined in § 790.5. The Secretary, at his discretion, may adjust the allocation reserved for such concerns. To the extent that guarantees on loans to such concerns are not issued within six months following the beginning of each fiscal year, the uncommitted allocation of loan guarantees for such concerns, at the discretion of the Secretary, may become available on an unrestricted basis.

(d) A loan application which, in the Secretary's view, should meet usual loan standards of lenders without a Federal guaranty will be regarded by the Secretary as not eligible for a loan guaranty under this regulation. In addition, an application for a loan for a portion of the project, or an application which does not present an acceptable plan to repay the proposed guaranteed debt, or for projects which are devoted exclusively to the extraction or production of geothermal byproducts as defined in § 790.5(b), or projects devoted exclusively to the desalination of geothermal brines will not be eligible for a Federal loan guaranty under this regulation.

(e) No loan shall be guaranteed if the income from such loan is excluded from gross income for purposes of Chapter I of the Internal Revenue Code of 1954, referred to in this section as Tax Exempt Securities. However, a guaranty may be issued in accordance with this regulation on a debt issued by, or on behalf of, a State, political subdivision, or Indian Tribe (which would normally issue Tax Exempt Securities) if the income received by a purchaser of that debt is included as gross income for purposes of Chapter I of the Internal Revenuue Code of 1954, as amended. For such transactions, the Secretary shall pay to the issuer of the debt that portion of the interest which is found to be appropriate after consultation with the Secretary of the Treasury, regarding current market yields on other obligations of the issuer or other obligations which have similar terms and conditions. Payments under this subsection by the Secretary shall be made to the issuer in accordance with terms and conditions in the guaranty agreement.

§ 790.5 Definitions.

For purposes of this regulation:

(a) "Geothermal resources" means (1) all products of geothermal processes, embracing indigenous steam, geopressured fluids, hot water, and brines, (2) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations, and (3) any byproduct derived from them;

(b) "Byproduct'" means any mineral or minerals or gases which are found in solution or in association with geothermal or geopressured resources and which have a value of less than 75 percent of the value of the geothermal steam and associated geothermal resources or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(c) "Secretary" means the Secretary of the Department of Energy or a representative authorized by the Secretary;

(d) "Manager" means the Manager of the Department of Energy's San Francisco Operations Office, 1333 Broadway, Oakland, California 94612, or a duly authorized representative of the Manager;

(e) "Lender" means any person engaged in the business of lending money and having the capability of servicing the loan, or the Federal Financing Bank.

(f) "Qualified Borrower" (after this referred to as the borrower) means any public or private agency, institution, joint venture, limited partnership, association, cooperative, partnership, corporation, individual, political subdivision, or other legal entity having authority to enter into a loan agreement and who meet the criteria of this regulation.

(g) A "loan" is an obligation involving a borrower and a lender, evidenced in writing, making available to the borrower money at a specified rate of interest for a limited period of time. The loan instrument may not provide for conversion into an equity relationship with the borrower;

(h) "Project" means an undertaking to develop geothermal resources at a specific site which when completed will result in an identifiable product, system, or resource for which a market potentially exists. Examples of a project include, but are not limited to, exploration and full-field development well drilling, power plant construction, equipment manufacturing,

research and development, construction of transmission lines from a geothermal power plant, and other ventures to utilize geothermal energy to serve as an energy source for direct heat applications, such as crop drying and greenhousing;

(i) A "small public or private electric utility, including its affiliates," is a business concern primarily engaged in the generation, transmission and/or distribution of electric energy for sale whose total electric output for its preceding fiscal year did not exceed four million megawatt-hours;

(j) A "small business, including its affiliates," is a concern which is independently owned and operated, is not dominant in its field of operation, and which does not have assets exceeding $9 million, or a net worth in excess of $4 million, and does not have an average net income, after Federal income taxes, for the preceding two years in excess of $400,000 (average net income to be computed without benefit of any carryover loss);

(k) "Default" means only the actual failure by the borrower to make payment of interest or principal in accordance with a schedule in the loan agreement, or to meet other requirements specified as a default condition in the guaranty agreement;

(l) "Estimated aggregate cost of the project" means those reasonable and customary costs incurred or to be paid by the borrowers which are directly connected with the project, including construction and start-up costs but excluding costs specified in § 790.22(c).

(m) "Holder" means the entity that lawfully holds all or any part of the guaranteed loan; and,

(n) "Guaranty fee" means a charge made by DOE for its administrative cost in processing and monitoring guaranteed loans and for probable guaranteed loan losses.

(o) "Federal Finance Bank" means the agency operating within the United States Department of the Treasury which has the authority to purchase Federally guaranteed debt.

### § 790.6 Loan guaranty criteria.

In addition to meeting the requirements for eligibility set forth in § 790.4(a), a guaranty or commitment to guaranty may be made only if the following conditions are met as determined by the Secretary on the written recommendation by the Manager: (Criteria applicable to the lender may not pertain to guarantees in which the Federal Financing Bank is the lender).

(a) The application form is signed by an authorized official of the lender and the borrower;

(b) The lender has demonstrated a willingness and capability of servicing the loan in an acceptable manner;

(c) The lender has set forth reasons acceptable to the Secretary why the loan would not be made to the borrower without a Federal loan guaranty;

(d) There is satisfactory evidence demonstrating that the lender is competent to administer loan terms and conditions, and is competent to administer terms and conditions in the guaranty agreement that are applicable to the lender;

(e) The guaranty shall apply only to the amount of the loan that does not exceed 75 percent of the estimated aggregate cost of the project.

(f) When the amount of the guaranty requested is equal to 100% of the loan made by the lender, the lender must set forth reasons satisfactory to the Secretary fully establishing why it is unwilling to undertake a loan having less than the maximum guaranty;

(g) The loan bears interest at a rate not to exceed an annual percent on the principal obligation outstanding as the Secretary determines, in consultation with the Secretary of the Treasury, to be reasonable, taking into account the range of interest rates for similar loans and risks which are Federally guaranteed.

(h) The term of the loan requires, as determined by the Secretary, the lesser of (1) full repayment over a period of no more than 30 years, (2) no longer than the expected average useful life of major physical assets essential to the project, or (3) the borrower's ability to repay the loan based on the project's cash flow projection.

(i) The amount of the loan together with other funds available to the borrower will be sufficient to carry out the project;

(j) There is reasonable assurance of repayment of the guaranteed portion of the loan by the borrower, and assurance that loan repayment is not dependent on interest or principal assistance;

(k) The amount of a guaranty for any loan for a project does not exceed $50,000,000.

(l) The total dollar amount of guarantees made under this regulation for any combination of outstanding loans to any single borrower does not exceed $200,000,000, unless the Secretary determines in writing that a guaranty in excess of these amounts is in the national interest and does not adversely impact competition. Such determinations shall be submitted to the Speaker of the House and the Chairman of the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Chairman of the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee will not be finalized prior to the expiration of 30 calendar days (not including any date on which either House of Congress is not in session) from the date on which the report is received by the Speaker of the House and the President of the Senate.

(m) The project is to be performed in the United States, its territories or possessions, or on property owned or leased by the United States outside the United States, its territories or possessions;

(n) The project is technically feasible;

(o) There is acceptable evidence that the borrower will initiate and complete the project in a timely and efficient manner;

(p) There is a sufficiency of encouraging geophysical, geological, hydrological and geochemical data;

(q) The borrower agrees to make available to the Secretary on a timely basis adequate technical or economic information as specified in the guaranty agreement, and, subject to provisions in § 790.20(b)(2), and further agrees to the public dissemination of specified project information.

(r) There is satisfactory evidence of the borrower's interest in geothermal resources;

(s) There is satisfactory evidence that the project will be carried out by the use of environmentally acceptable processes in such a manner as to mitigate any adverse environmental impact to the maximum extent practicable, and to comply with any applicable environmental protection and pollution control requirements.

(t) The environmental risks of the project have been evaluated in accordance with § 790.23;

(u) The terms and conditions set forth in the loan agreement are acceptable;

(v) The borrower and any non-guaranteed lender agree in writing that the terms and conditions set forth in a non-guaranteed loan agreement relating to the project must be acceptable to the Secretary before such agreement is effective;

(w) The Secretary of the Treasury has insured the Secretary of Energy to the maximum extent feasible that the timing, interest rate, and terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital market of the United States taking into account other Federal direct and indirect commercial securities activities; and

(x) There are no significant adverse competitive impacts from cumulative guarantees in excess of $50,000,000 to any single borrower.

§ 790.7 Interest and principal assistance.

(a) Whenever the borrower is unable to pay required interest or principal, the Manager, upon approval by the Secretary, may enter into interest or principal assistance contracts with the borrower to pay the lender for and on behalf of the borrower the interest charges or principal payments which become due and payable if the Secretary finds that:

(1) The borrower is unable to meet such payments and is not in default;

(2) That it is in the public interest to permit the borrower to continue to pursue the purposes of the project; and,

(3) That the probable net cost to the Federal Government in paying such amounts will be less than that which would result in the event of a default.

(b) The amounts which the Manager is authorized to pay under an interest or principal asistance agreement shall be no greatyer than the amount of interest or principal which the borrower is obligated to pay under the loan agreement; and

(c) The principal or interest assistance agreement shall provide that the borrower repay the amounts received on terms and conditions, including interest, which are satisfactory to the Secretary.

§ 790.8 [Reserved]

§ 790.9 Period of guarantees and assistance contracts.

No loan guaranty agreements or commitments to guaranty will be made or interest or principal assistance contracts entered into after September 3, 1984. Guaranty agreements in effect at that time will continue until the term of the loan is completed or until the guaranteed portion of the loan is repaid in full with accrued interest, whichever occurs first. Similarly, interest or principal assistance contracts in effect on September 3, 1984, will remain in effect until the contract term expires or is otherwise terminated.

§ 790.10 Information for States and Indian Tribes.

The Secretary, the Manager, or a Regional Representative of the Secretary will, as appropriate, meet with Governors of directly affected States, regional associations of Governors, heads of State agencies and commissions responsible for energy or environmental matters, and Indian Tribes for the purpose of:

(a) Discussing the status of projects guaranteeed under this regulation;

(b) Identifying means to remove or mitigate legal and regulatory barriers to the accelerated use of goethermal resources;

(c) Evaluating plans to encourage growth in the geothermal industry;

(d) Discussing community impacts which may result from projects receiving a loan guaranty under this regulation; or

(e) Other areas deemed appropriate.

§ 790.11 Full faith and credit and incontestability.

The full faith and credit of the United States is pledged to the payment of all guarantees issued in accordance with these regulations, and such guarantees shall be valid and incontestable by the Government, except for fraud or misrepresentation by the holder of the guaranteed obligation. A guaranty agreement entered into in accordance with these regulations shall be conclusive evidence that the guaranty and the underlying loan are in compliance with applicable laws and these regulations, and that such loan has been approved.

§ 790.12 Use of Federal Financing Bank.

(a) Loans guaranteed in accordance with these regulations may be funded through the Federal Financing Bank whenever the Secretary has made each of the following determinations:

(1) The loan is 100% guaranteed;

(2) Private funding of the debt is not available at acceptable terms, rate or fees acceptable to the Secretary; and

(3) Federal Financing Bank funding will not have a material adverse affect on the objectives of the program.

(b) Whenever a loan is funded through the Federal Financing Bank, the loan shall be serviced in accordance with the loan servicing requirements of these regulations by parties acceptable to the Manager. The servicing cost shall be paid by the borrower in addition to any guaranty fee charged by the lender to the borrower, and may be included in the estimated aggregate cost of the project.

§ 790.13 Deviations.

To the extent that such requirements are not specified by Pub. L. 93-410 as amended or other applicable statutes, DOE's Assistant Secretary for Resource Applications may authorize deviations on an individual application basis from the requirements of this regulation (except § 790.23) upon a finding that such deviation is essential to program objectives and the special circumstances in the application submitted by the borrower and lender make such deviation clearly in the best interest of the Government. Recommendation for any deviation shall be submitted in writing by the Manager to the Assistant Secretary for Resource Applications. Such recommendations should include a supporting statement, which indicates briefly the nature of the deviation requested and the reasons therefore. This deviation authority may not be redelegated.

Subpart B—Applications

§ 790.20 Filing.

(a) A completed application for a loan guaranty under this regulation must be on a form provided by the Manager and be signed by the prospective borrower and submitted to the Manager who is responsible for processing the application. If the application involves a private lender, the form shall be signed by the lender. Application forms and information regarding the filing of applications may be obtained from the Director, Geothermal Loan Guaranty Program Office, San Francisco Operations Office, Department of Energy, 1333 Broadway, Oakland, California 94612. Telephone (415) 273-7151.

(b)(1) Prior to receipt of an application, the Manager is authorized to conduct preliminary discussions with prospective lenders or borrowers wishing to obtain information or advice regarding eligibility for a loan guaranty and compliance with filing requirements.

(2) Subject to requirements of law and applicable regulations, information such as trade secrets, commerical and financial information, geological, geophysical and geographical information and data (including maps) concerning wells which the borrower or lender submits to DOE during the preliminary discussion or at any other time throughout the duration of the project on a privileged or confidential basis, will not be publically disclosed by DOE without prior notification to the submitter. Information asserted by the borrower or lender to be privileged or confidential shall be appropriately identified and marked. The guaranty agreement shall identify those items of information which the borrower will make available to the Manager for public dissemination.

(c) Supporting information and cost data submitted by the applicants shall be updated and furnished to the Manager whenever changes occur during the pendancy of the guaranty application.

§ 790.21 Supporting information.

(a) The lender and borrower shall provide information, as prescribed by the Manager, to supplement the application. The following items are provided to illustrate the range of supporting information which may be required to enable the Manager to prepare a recommendation with respect to any pending application.

(1) Full description of the scope, nature, extent, milestones and location of the proposed project;

(2) A detailed budget-type breakdown of both the estimated aggregate cost of the project and the amount to be borrowed;

(3) Evidence showing that the amount of the loan together with equity or other financing will be sufficient to complete the project;

(4) The borrower's plan to repay the loan, including cash flow projections, assumptions regarding marketability of the project's results or product, descriptions of the project's technical and economic feasibility, and environmental acceptability;

(5) The aggregate outstanding amount of guaranty commitments or guaranteed loans made to the borrower under the provisions of these regulations;

(6) Where relevant to the purpose of the loan guaranty, a copy of the borrower's title or lease agreement to the property on which the project is to be carried out, supported by title opinion or other acceptable evidence of the borrower's ownership interest;

(7) Subject to § 790.20(b)(2), technical information and reports, geophysical data, well logs and core data, financial statements, milestone schedules, and maps and charts;

(8) Information covering the management experience of each officer or key person in the borrower's organization who is to be associated with the project and a description of salaries (and other financial remuneration including profit sharing and stock options) to be paid to officers and employees of the borrower that are, or will be, directly associated with the project;

(9) A description of the borrower's management concept, and business plan or plan of operations, to be employed in carrying out the project;

(10) A description of the intended sources and amount of capital and its form (equity, loans from principals, loans from the lender, outside financing, or factoring) together with evidence of a commitment from these sources and a copy of each such agreement, and evidence of the financial ability of each source to honor its commitment;

(11) A listing of assets associated or to be associated with the project, including appropriate data as to value and useful life of major assets essential to the project, and a description of any other security;

(12) A listing of all permits or authorizations required by Federal, State and local government agencies to conduct the project and a copy of each application for approval of such permits or authorizations when issued or a statement of planned filing dates and expected date of approval;

(13) A description of the borrower's organization and, as applicable, a copy of the business certificate, partnership agreement or corporate charter, bylaws, and appropriate authorizing resolutions;

(14) The lender's written assessment of all aspects of the borrower's loan application in such detail as would be expected by prudent lenders considering a loan without a guaranty, together with copies of the proposed loan agreement, the borrower's financial statements, investigations from credit bureaus, references, bank inquiries, and professional organizations;

(15) A copy of all existing loan agreements and written assurance from any existing lenders of project funds that the loan amounts as well as terms and conditions imposed by lenders on such loans will not be altered in any significant respect without the prior approval of the Secretary;

(16) Evidence of consultation conducted by the borrower with appropriate agencies of any affected State regarding the proposed project, and a description of any adverse social or economic impacts which may occur in the community in which the project will be located;

(17) A disclosure by the lender of (i) whether any of its officers, directors, major stockholders or other major owners have a financial interest in the borrower and (ii) whether any of the borrower's officers, directors, major stockholders or other major owners have a financial interest in the lender; and,

(18) Any other information required by the Manager to fully evaluate the guaranty application.

(b) In addition to supporting information illustrated in paragraph (a) of this section, the Manager may independently obtain or may require the lender to include with the guaranty application information regarding the lender as deemed necessary by the Manager, including but not limited to:

(1) Description of the lender's organization and a copy of the business certificate, partnership agreement or corporate charter, bylaws, and appropriate authorizing resolutions;

(2) Copies of investigation reports obtained from credit bureaus, reference and bank inquiries, and professional associations;

(3) A description of the management experience of each officer or key person in the lender's organization who will be servicing the loan;

(4) A description of the management techniques to be employed by the lender in surveillance of the loan;

(5) When appropriate to the project, evidence of the lender's experience in surveying the financial aspects of complex technological projects; and

(6) A copy of the lenders' conditional loan commitment document, if any, issued to the borrower.

(c) The Manager shall consider the application and other relevant information and shall be responsible for: (1) Determining whether the application is in compliance with these regulations; (2) assessing and evaluating the financial, technical, environmental, legal, management, and marketing aspects of the project; (3) assessing the availability of the project's financing, other than that provided by the proposed guaranty for the project, and assessing whether such financing is adequately committed; and, (4) recommending to the Secretary approval or nonapproval of the application. The Manager shall include with a recommendation for approval a proposed guaranty agreement containing appropriate terms and conditions pertinent to the project, previously discussed and negotiated by the Manager with the lender and borrower. When not approved by the Secretary, the Manager will provide the borrower and lender with a written statement setting forth the basis for the non-approval of the guaranty application.

**§ 790.22 Project cost illustrations.**

(a) The cost elements set forth in paragraphs (b) and (c), of this section are only for the purpose of illustrating the manner by which the estimated aggregate cost for construction and initial startup of the project can be determined. It is expected that these project costs will be recorded in accordance with generally accepted accounting principles and practices which are consistently applied.

(b) Except as set forth in paragraph (c) of this section, reasonable and customary costs for construction and initial startup paid or to be paid by the borrower or the applicants for a guaranty that are directly connected to the project are generally permitted in computing the estimated aggregate project cost. These costs include, but are not limited to the following:

(1) Employees' salaries and wages, consultant fees and other outside assistance;

(2) Land purchase or lease payments, including reasonable real estate commissions;

(3) Engineering fees, surveys, plates, title insurance, recording fees and legal fees incurred in connection with land acquisition;

(4) Site improvements, site restoration and abandonment costs, access roads and fencing;

(5) Drilling of exploration wells, shallow heat-flow wells, and test, production and reinjection wells;

(6) Buildings, transmission lines, powerplant equipment, and machinery;

(7) Taxes (including tax advances associated with community impact planning) to be paid to Federal, State and

local government agencies and other taxing authorities;

(8) Insurance, including flood insurance, and bonds of all types;

(9) Engineering, geological, and architectural fees paid in connection with drilling, machinery selection, design, acquisition and installation;

(10) Research, exploration or development necessary to complete the project;

(11) Professional services and fees necessary to obtain licenses and permits and to prepare environmental reports and data;

(12) Interest costs charged by the lender;

(13) Interest payments to other lenders;

(14) Costs incurred for the benefit of the project prior to approval of the guaranty agreement that are directly connected with the project;

(15) Technical and socio-economic information dissemination costs, and community impact assistance costs;

(16) Costs to provide safety and environmental protection equipment, facilities and services;

(17) Travel and transportation costs;

(18) Bond financing costs and trustee fees;

(19) Fees for royalties and licenses;

(20) Costs associated with acquiring geophysical and other technical data;

(21) Financial and legal services costs;

(22) Costs to comply with terms and conditions specified in the guaranty agreement or with applicable laws, rules and regulations.

(23) Expenses associated with initial period of starting operations; and

(24) A contingency reserve.

(c) Costs which are not considered as part of the estimated aggregate cost of the project and are not a project cost are illustrated below:

(1) Company organizational expenses;

(2) Parent corporation general and administrative expenses and other parent corporation assessments;

(3) Dividends and profit sharing to stockholders, employees and officers;

(4) Goodwill, franchises, or trade or brand name costs;

(5) Except as provided in § 790.31, fees and commissions charged to the borrower for obtaining loans and Federal assistance;

(6) Loan commitment fees charged by lenders, except as specifically approved by the Secretary, and finders' fees;

(7) Operation expenses (including interest costs) incurred after an initial period of start-up; and,

(8) Costs that are excessive or are not directly required to carry out the project.

(d) Independently, or at the direction of the Secretary, the Manager may cause to be performed a review of any or all cost elements included by the applicant in the estimated aggregate project cost. The applicant shall make available records and other data necessary to permit the Manager to carry out such review. In carrying out this responsibility, the Manager may utilize employees of Federal agencies or may direct the applicant to submit to a review performed by an independent public accountant or other competent authority.

(e) When costs incurred prior to the approval of the guaranty agreement, as provided in § 790.22(b)(14), are included in the estimated aggregate project cost, the applicant, if requested by the Manager, shall make available to auditors selected by the Manager financial and other records necessary to complete an audit of such costs if requested by the Manager.

(f) In the case of a guaranty for the purposes specified in § 790.4(a)(5), the aggregate cost of the project can be that portion of the total cost of construction and start-up operations which is directly related to the utilization of geothermal energy within the structure or facility, except that the aggregate cost of the project may include construction and start-up operations when the facility or structure is to be located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Secretary the economic viability of the project is substantially dependent on the performance of the geothermal reservoir.

### § 790.23 Environmental considerations.

(a) The issuance of a Federal guarantee for a loan under these regulations is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq. Pub. L. 91-190) and applicable regulations, rules and guidelines implementing NEPA. NEPA requires the identification and environmental review of "major Federal actions significantly affecting the quality of the human environment." DOE shall follow its general regulation governing its procedures and policies implementing NEPA.

(b) In addition to generally applicable criteria used to determine the proper scope of environmental review to be accorded individual applications, DOE shall review and consider the environmental impacts associated with the commercial operation of the project throughout its useful life. Such considerations shall be carried out even where the proposed guaranty may be limited to only a small or preliminary segment of the entire commercial project. (For example, if the guaranty is for a project to complete a steam supply system for a future powerplant, the environment impacts of construction and operation of the powerplant and related transmission lines over the useful life of the plant would be evaluated along with the impacts associated with drilling and surface gathering construction.) Any specific action under a guaranty, such as approval of a disbursement, shall not be made unless the applicable requirements of the NEPA and the DOE implementing NEPA regulations have been met.

(d) The issuance of a loan guaranty under this regulation is subject to the provisions of Executive Order 11988—Floodplain Management, and 11990—Protection of Wetlands. Borrowers applying for loan gurantees under this regulation should familiarize themselves with these Orders and with the DOE regulations implementing them (proposed 10 CFR Part 1022, published at 43 FR 31108, July 19, 1978).

### § 790.24 Mandatory purchase of flood insurance.

The Flood Disaster Protection Act of 1973 (Pub. L. 92-234) may require purchase by the borrower of flood insurance as a condition of receiving a guaranty on loans for acquisitions or construction purposes in an identified flood plain area having special flood hazards. Questions emanating from borrowers or lenders regarding compliance with provisions of the Flood Disaster Protection Act and guidelines of the Federal Insurance Administration will be referred to the Manager.

## Subpart C—Servicing and Closing

### § 790.30 Loan servicing by lender.

Except when the loan is placed through the Federal Financing Bank, guaranty agreements approved in accordance with these regulations shall provide that:

(a) Loan servicing is a responsibility of the lender who shall exercise such care and diligence in the disbursement, servicing, and repayment of the loan as would be exercised by a reasonable and prudent lender in dealing with a loan without guaranty;

(b) The loan agreement shall provide specific dates for the payment of principal and interest and shall provide a period of grace of not less than 30 days for the making of any payment. The lender shall not grant the borrower any further extension of time over and above any grace period without the prior written consent of the Manager;

(c) The lender shall notify the Manager in writing without delay:

(1) That disbursement for the first project milestone is ready to be made, together with evidence from the bor-

rower that the project has commenced or is about to commence;

(2) Of the date and amount of disbursement for each subsequent project milestone under the loan;

(3) If, excluding any grace period, the lender has not received payment within 10 days after the date specified for payment in the loan agreement, together with evidence of appropriate notifications made by the lender to the borrower;

(4) Of any failure, known to the lender, by an intended source of capital to honor its commitment;

(5) Of any failure by the borrower, known to the lender, to comply with terms and conditions as set forth in the loan agreement and any failure by the borrower to comply with guaranty terms and conditions that the lender has agreed to monitor;

(6) If the lender has information that the borrower may be approaching any of the default conditions set forth in the loan agreement or that the borrower may not be able to meet any future scheduled payment of principal or interest; or

(7) Of all material changes from the cash flow projections in effect at the time the loan guaranty application is approved.

(d) The lender agrees not to demand accelerated repayment unless the borrower has defaulted in the payment of principal or interest or in other cases if such demand has been approved in writing by the Manager.

(e) The loan agreement may defer the repayment of principal for a period of time as agreed to by the Secretary.

(f) The guaranty agreement shall require the lenders to submit to the Manager periodic financial reports on the status and condition of the guaranteed loan. The guaranty agreement shall prescribe the frequency, format and content of these reports. However, such report shall, as a minimum, be required annually. Reports shall be furnished to the Manager until such time as the guaranteed portion of the loan and interest or principal assistance is repaid.

### § 790.31 Guaranty fee.

(a) A guaranty fee of not more than one percent shall be paid annually by the lender at a rate specified in the guaranty agreement. Fees collected by the Manager shall be deposited in the Geothermal Resource Development Fund. The fee shall be imposed on the average amount of the guaranteed portion of the loan outstanding during the year. The fee requirement may be passed to the borrower by the lender and in such instances may be included in the estimated aggregate cost of the project. When the Federal Financing Bank is the lender, the borrower shall pay the guaranty fee directly to the Manager.

(b) At the time the guaranty agreement is concluded, as set forth in § 790.45(d), the lender shall present to the Manager payment of the first year's guaranty fee. Subsequent payments of the fee shall be made yearly by the lender on the anniversary date of closing. If an interest or principal assistance contract is in effect, payments of this fee, if passed by the lender to the borrower, may be deferred by the Secretary for an appropriate time.

(c) The Secretary shall periodically determine whether the guaranty fee being imposed is sufficient to cover anticipated administrative, probable default, and when appropriate, establish a revised fee rate, not to exceed one percent, to be applied to new guaranty agreements.

### § 790.32 Geothermal resources development fund.

(a) As provided in Sec. 204(a) of Pub. L. 93-410, there is established in the Treasury of the United States a Geothermal Resources Development Fund, which is available to the Secretary in carrying out any loan guaranty, interest or principal assistance, and interest differential payments. Balances in the Fund are available for necessary administrative expenses incurred by or on behalf of DOE in carrying out the provisions of this regulation.

(b) Appropriations to the Geothermal Resource Development Fund that are made available through legislation, or repayments made by borrowers in accordance with terms and conditions in interest or principal assistance contracts, or amounts returned through recoveries by the U.S. Attorney General, or amounts collected as guaranty fees shall be deposited in the Fund.

(c) If at any time Geothermal Resource Development Fund balances are insufficient to enable the Secretary to discharge DOE's obligations and responsibilities under this regulation, the Secretary, subject to provisions in appropriations acts, may borrow funds from the secretary of the Treasury upon the issuance of notes or other obligation instruments containing terms and conditions prescribed by the Secretary of the Treasury.

### § 790.33 Project monitoring.

The guaranty agreement shall provide that employees and representatives of DOE shall, with the Manager's approval, have access at reasonable times and under reasonable circumstances to the project site. The lender, to the extent lawful and within its control, and borrower will assure availability of information related to the project as is necessary to permit the Manager to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, and other matters pertinent to the guaranty.

### § 790.34 Loan disbursements by lender.

(a) Unless otherwise provided in the guaranty agreement, the lender shall not provide the borrower with any funds under the loan agreement until the lender has:

(1) Provided the notification set forth in § 790.30(c) (1) and (2) and has received written notice from the Manager that disbursement for the applicable milestone is approved; and,

(2) Received from the borrower satisfactory documentary evidence, as provided in § 790.35, that loan drawdowns requested will be used to pay allowable project costs incurred or to be incurred by the borrower.

(b) When the loan is fully guaranteed, the guaranty agreement shall provide that the lender will withhold loan drawdowns from the borrower only upon written notification from the Manager.

### § 790.35 Satisfactory documentary evidence.

The loan agreement shall provide that the borrower furnish to the lender a written statement in support of each request by the borrower for loan drawdowns. This statement shall set forth in such detail as the lender or Manager may require the purposes for which drawdown is requested and an attestation that such disbursements will be used only for such purposes. Each such request shall be signed by a person authorized to order the expenditure of the borrower's funds.

### § 790.36 Reduction or withdrawal of guaranty.

The Secretary, may, upon the written recommendation of the Manager, reduce or withdraw any guaranty by written notice to the lender and the borrower if he determines that:

(a) Initiation of the project has not occurred within the period of time set forth in the guaranty agreement. Within 60 days after the guaranty is withdrawn under this circumstance, the Manager shall reimburse the lender for the full amount of the guaranty fee paid by the lender if the fee has not been passed to the borrower;

(b) The borrower has failed to acquire capital from intended or alternate sources, or has failed to comply with material terms and conditions as set forth in the loan or guaranty agreement. The Manager shall, if appropriate, notify the borrower and the

lender that the guaranty shall be reduced to the amount that has been received by the borrower as of the date of the notice. Drawdowns permitted by the lender after such notification is received will not be covered by the guaranty; or

(c) The lender has failed to comply with any material term or condition set forth in the guaranty or loan agreement. The guaranty may be reduced to the amount that has been received by the borrower as of the date the Manager's notice of reduction of the guaranty. Notice of the Manager's finding that a material term has not been complied with by the lender shall be sent by the Manager to the borrower and the lender. Following notification, the borrower will be allowed reasonable time to acquire a substitute lender that is capable of complying with provisions in the loan and guaranty agreements. If the borrower obtains a substitute lender satisfactory to the Secretary, a new guaranty agreement will be executed. Upon execution of the guaranty agreement by the substitute lender and DOE, the Secretary may provide that the original lender shall be reimbursed by the borrower for unpaid principal outstanding and accrued interest.

(d) In the event the Secretary, in his descretion determines, upon recommendation by the Manager of discussions with the borrower and lender, that the project's economic success or environmental acceptability is no longer achievable. Written notice shall be given to the borrower and lender of this determination and the guaranty shall then be reduced to amounts which have been received by the borrower as of the date that the notice is received by the lender.

**§ 790.37 Default, demand, payment and collateral liquidation.**

(a) In the event that the borrower has defaulted in the making of required payments of principal or interest on any portion of a loan guaranteed in accordance with these regulations, and such default has not been cured within the period of grace provided in the loan agreement, the lender, or any other holder, or nominee or trustee empowered to act for the lender or holder (referred to in this section collectively as "holder"), may make written demand upon the Manager for payment pursuant to the guaranty agreement.

(b) In the event that the borrower is in default as a result of a breach of one or more of terms and conditions of the guaranty agreement, note, loan agreement, or other contractual obligation related to the transaction, other than the borrower's obligation to pay principal or interest, as provided in § 790.37(a) the holder shall not automatically be entitled to make demand for payment pursuant to the guaranty, unless the Secretary agrees in writing that such default has materially effected the rights of the parties, and finds that the holder should be entitled to receive payment of the outstanding guaranteed debt.

(c) No provision of these regulations shall be construed to preclude forbearance by the holder and the Secretary for the benefit of the borrower.

(d) Upon the making of demand for payment as provided in § 790.37 (a) or (b), the holder shall provide, in conjunction with such demand or immediately thereafter, at the request of the Manager, such supporting documentation as may be reasonably required to justify such demand.

(e) Payment of the guaranteed debt shall be made 60 days after receipt by the Manager of written demand for payment: *Provided,* The demand is in compliance with terms of the guaranty agreement, applicable law, and these regulations. The guaranty agreement will provide that interest shall accrue during that period at the rate stated in the loan agreement.

(f) Upon payment of the guaranteed debt pursuant to these regulations, the holder shall transfer and assign to the Manager all rights held by the holder in the guaranteed portion of the debt which was guaranteed. Such assignment shall include the guaranteed portion of the loan and related security and collateral rights. Through such payments and assignment, the Secretary shall be subrogated to the rights of the recipient of the payment and shall have superior rights in and to the property acquired from the recipient of the payment.

(g) Where the guaranty agreement so provides, the lender and the Manager may jointly agree to a plan of liquidation of the collateral pledged to secure the guaranteed debt, and thereafter the lender may undertake such liquidation and make application of the proceeds derived thereby in accordance with the terms and conditions of the loan and guaranty agreements and the written plan of liquidation.

(h) Where payment of the guaranteed debt has been made and the lender has not undertaken a plan of liquidation, the Secretary, in accordance with the rights received through subrogation and acting through the U.S. Attorney General, shall seek to foreclose on the collateral assets and take such other legal action as necessary for the protection of the Government.

(i) If the Secretary is awarded title to collateral assets pursuant to a foreclosure proceeding, the Secretary may take action to complete, maintain, operate, or lease the project facilities, or take any other necessary action which the Secretary deems appropriate, in order that the original goals and objectives of the project will, to the extent possible, be realized.

(j) In addition to foreclosure and sale of collateral pursuant thereto, the U.S. Attorney General shall take appropriate action in accordance with rights contained in the guaranty agreement to recover costs incurred by the Government as a result of the defaulted loan. Any recovery so received by the U.S. Attorney General on behalf of the Government shall be applied in the following manner: First to the expenses incurred by the U.S. Attorney General and DOE in effecting such recovery; second to reimbursement of any amounts paid by DOE as a result of the loan guaranty; third to any amounts owed to DOE under related principal and interest assistance contracts; and fourth to any other lawful claims held by the Government on such proceeds. Any sums remaining after full payment of the above shall be available for the benefit of other parties lawfully entitled to claim them.

**§ 790.38 Perfection of liens and preservation of collateral.**

(a) The guaranty agreement shall provide that: (1) The lender will take those actions necessary to perfect and maintain liens, as applicable, on assets which are pledged collateral for the guaranteed portion of the loan; and, (2) upon default by the borrower, the holder of pledged collateral shall take actions such as the Manager may reasonably require to provide for the care, preservation, protection and maintenance of such collateral so as to enable the United States to achieve maximum recovery upon default of the loan. The Manager shall reimburse the holder of collateral for reasonable and appropriate expenses incurred in taking actions required by the Manager. Except as provided in § 790.37, the lender shall not waive or relinquish, without the consent of the Manager, any collateral for the loan to which the United States would be subrogated upon payments under the guaranty agreement.

(b) In the event of a default, the Manager may enter into contracts as required to preserve the collateral for the loan and to complete unfulfilled environmental requirements. The cost of such contracts may be charged to the Geothermal Resource Development Fund.

**§ 790.39 Treatment of payments.**

When the lender holds a guaranteed and non-guaranteed portion of the same loan, payments of principal under the loan agreement made by the borrower shall be applied by the

lender to reduce the guaranteed and non-guaranteed portions of the loan on a proportionate basis.

**§ 790.40 Assignment and participation.**

(a) The lender may not assign to another lender those loan servicing functions required by the guaranty agreement unless prior written approval is obtained from the Manager.

(b) The lender may sell all or part of the guaranteed loan or provide other parties with participating shares in the guaranteed loan without the prior consent of the Secretary. However, the original lender shall continue to be responsible for and perform the duties and obligations of the lender as set forth in the guaranty agreement, unless the Secretary approves a substitute lender in accordance with § 790.36.(c).

(c) If participating shares in the guaranteed loan are sold by a lender, written notice thereof shall be given by the lender to the Manager and the borrower in the manner prescribed in the guaranty agreement.

**§ 790.41 Survival of guaranty agreement.**

Any guaranty agreement shall be binding upon the lender, the borrower and the Secretary and upon their successors and assigns. No delay or failure of the Secretary or the Manager in the exercise of any right or remedy and no single or partial exercise of any right or remedy shall preclude the exercise of any further rights; and no action taken or omitted by the Secretary or the Manager shall be deemed a waiver of any right or remedy of the United States. Each guaranty agreement shall contain provisions setting forth these conditions.

**§ 790.42 Modifications to existing guaranty agreements.**

The Manager may approve modifications to terms and conditions in existing loan and guaranty agreements only upon determining that such modifications will not (a) substantially change the project's scope, cost and purpose; (b) deviate from provisions in this regulation; or (c) compromise the loan agreement schedule for loan repayment. When the Manager finds that a substantive modification to existing terms and conditions is desirable or necessary, or is requested in writing by the borrower and lender, a written recommendation shall be forwarded for determination by DOE's Assistant Secretary for Resource Applications.

**§ 790.43 Other Federal assistance.**

(a) Nothing in these regulations shall be interpreted to deny or limit the borrower's right to seek and obtain other Federal financial assistance (e.g., contracts, grants, cooperative agreements, direct loans or guaranteed loans). For purposes of this section, other financial assistance does not include revenue sharing funds or any tax benefits. However, the total amount of Federal financial assistance, including guarantees made under these regulations, obtained by the borrower for the benefit of the project, shall not exceed 75 percent of the estimated aggregate cost of the project to be undertaken by the borrower.

(b) After concluding a loan guaranty agreement hereunder, the borrower shall not undertake any work in connection with the project for a Federal agency without the Manager's written approval.

**§ 790.44 Inventions and other intellectual property.**

(a) Inventions and other intellectual property accruing to the borrower and resulting from the project will remain with the borrower. In the case of default, such property shall be treated as project assets in accordance with terms and conditions in the guaranty agreement.

(b) The guaranty agreement may provide that inventions or other intellectual property utilized in or resulting from the project, which are owned or controlled by the borrower, shall be made available for use within the United States upon reasonable terms and conditions including provisions, if necessary, which protect the confidentiality thereof, if such action is determined by the Secretary to be in the public interest. This requirement will normally not be included where the principal purpose of the loan to be guaranteed is to utilize generally available technology to determine and evaluate a new geothermal resource base, or the acquisition of rights in geothermal resources.

(c) Where the principal purpose of the loan is for research and development with respect to extraction and utilization technologies, or for the development or demonstration of new and unique facilities or equipment, a requirement to make inventions and other intellectual property available to other domestic parties shall be included in the guaranty agreement unless the Secretary determines, upon the recommendation of the Manager, that such a requirement would either seriously impair the borrower's ability to conduct the project or the borrower's comeptitive position, or be inconsistent with the borrower's pre-existing contractual obligations. The Secretary's determination on this matter shall include consideration of whether attainment of the objectives of the geothermal loan guaranty program, as set forth in § 790.2, will be adversely affected by this requirement.

**§ 790.45 Closing.**

(a) When an application for a loan guaranty has been approved by the Secretary, the Manager shall notify the lender and the borrower and provide them with a copy of the guaranty agreement or commitment to guaranty approved by the Secretary;

(b) A preclosing conference will be arranged by the Manager, if the lender or borrower requests one, to discuss the terms and conditions contained in the approved guaranty agreement;

(c) Requests by the lender or borrower for substantive modification of the terms and conditions set forth in the guaranty agreement shall be submitted by the Manager for the Secretary's consideration, supported by such documentation and facts as would justify the requests; and,

(d) Immediately after approval of all terms and conditions by the parties, the Manager shall arrange with the lender and the borrower for the preparation and review of necessary documents and agree upon a date for execution of the guaranty agreement and payment of the guaranty fee.

**§ 790.46 Suspension, termination or cancellation of operations or production on Federal land administered by the Secretary of the Interior.**

(a) The Manager shall inform the Supervisor (as defined in 30 CFR 270.2 (c)) when a loan guaranty is approved involving a Federal lease, so as to provide for future coordination of the loan guaranty program and lease administration.

(b) Under regulations issued by the Department of Interior, a leaseholder may, as provided in 43 CFR 3205.3-8 and 30 CFR 270.17, apply for suspension of operations or production, or both, under a producing geothermal lease (or for relief from any drilling or producing requirements of such a lease). When a loan guaranty has been issued under this regulation for a project to be conducted by a qualified borrower who is a lessee under the above cited regulation, the borrower shall submit a copy of any suspension application to the Manager, together with a statement setting forth complete information showing the effect of such suspension on the borrower's ability to comply with terms and conditions set forth in the loan and guaranty agreements. The Manager shall notify the borrower and the Secretary in those situations when approval of any such application might cause default by the borrower. Except in cases where potential environmental safety or reservoir damage is imminent, the borrower shall obtain the Manager's approval prior to submitting a suspension application to the Supervisor.

(c) 43 CFR 3204.3 requires that each geothermal lease issued by the Department of the Interior provide for the readjustment of terms and conditions at not less than 10-year intervals beginning 10 years after the date geothermal steam is produced. When a guaranty under this regulation has been issued for a loan on a project to be conducted by a borrower who is a lessee, and the borrower files an objection to any proposed readjustment with the Authorized Officer (as defined in 43 CFR 3000.0-5(f)) a copy of the objection shall be submitted without delay by the borrower to the Manager. The Manager shall forward a copy of the objection to the Secretary and to those lenders concerned, and shall consult with the Authorized Officer regarding any final action by the Authorized Officer which might terminate the lease. The Manager shall prepare an assessment on the effect of the proposed readjustment of lease terms and conditions that would substantially limit the borrower's ability to comply with the terms and conditions set forth in the loan agreement. The Manager shall forward his assessment in writing to the Secretary, the Authorized Officer and the supervisor.

(d) Upon receipt by the lessee of notice of a proposed cancellation of a lease by the Authorized Officer, the lessee with a loan guaranteed under this regulation will provide the Manager and the lender with notice of such proposed action. Upon receipt of such notice the Manager will consult with the Supervisor and Authorized Officer for the purpose of determining whether the public interest can best be served by an acceptable alternative arrangement, such as obtaining assignments for a party qualified to hold geothermal leases who is a qualified borrower and who is willing to assume the original lessee's loan agreement and related undertaking, so that operation and production can continue.

**§ 790.47 Appeals.**

Any guaranty agreement shall include a provision that specifies that any dispute concerning a question of fact arising under a guaranty agreement shall be decided in writing by the Manager. The borrower or lender, as appropriate, may within seven days after receipt of any such decision request reconsideration by the Manager. If not satisfied with the final written decision, the borrower or lender, may appeal the decision within 30 days, in writing, to the Chairman, Board of Contract Appeals (BCA), Department of Energy, Washington, D.C. 20545. That Board when functioning to resolve such loan guaranty disputes, shall proceed in the same general manner as when it presides over appeals involving contract disputes. The decision of the Board with respect to such appeals shall be the final decision of the Department.

Signed at Washington, D.C., this 29th day of December, 1978.

STANLEY I. WEISS,
*Deputy Assistant Secretary, Utility and Industrial Energy Applications, Resource Applications.*

[FR Doc. 79-398 Filed 1-2-79; 3:12 pm]

Federal Register

FRIDAY, JANUARY 5, 1979
PART VII


# DEPARTMENT OF ENERGY

## GRANT PROGRAMS FOR CONDUCTING TECHNICAL ASSISTANCE PROGRAMS AND ADOPTION OF ENERGY CONSERVATION MEASURES FOR SCHOOLS, HOSPITALS, UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

**Proposed Rulemaking and Announcement of Public Hearings**

[6450-01-M]

## DEPARTMENT OF ENERGY

[10 CFR Part 455]

[Docket No. CAS-RM-78-503]

## GRANT PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

### Proposed Rulemaking and Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Department of Energy (DOE) proposes to implement cost sharing grant programs for conducting technical assistance programs and adoption of energy conservation measures for schools, hospitals, units of local government and public care institutions pursuant to Title III of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3206. Technical assistance programs will identify and evaluate attainable energy conservation objectives. Energy conservation measures will include the acquisition and installation of specific conservation systems or fixtures to reduce energy use and anticipated energy costs in school and hospital buildings. Participation in the programs is voluntary. The Secretary will make grants to States, schools, hospitals, units of local government and public care institutions for technical assistance programs, and to States, schools and hospitals for energy conservation measures.

DOE will be responsible for general program oversight. However, program management, including financial auditing, monitoring and evaluation of activities in a given State, will be the responsibility of that State. Grant applications will be reviewed by responsible State agencies for conformance with previously approved State Plans and forwarded at specified times to DOE. States will be eligible to receive grants to defray administrative and other expenses on a cost-sharing basis.

DATES: Written comments must be received by February 3, 1979, 4:30 p.m., e.s.t.

Hearings will be held on January 22-24, 1979, in Seattle, Wash., and Chicago, Ill., beginning at 9:30 a.m., local time; and on January 23, 1979, in Washington, D.C., beginning at 9:30 a.m., e.s.t.

Requests to speak at the hearings must be directed to DOE at the address given below for the appropriate city and must be received before 4:30 p.m., local time, on January 17, 1979.

ADDRESSES: Send written comments to: Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461.

See "XII. Comment Procedures" under Supplementary Information below.

Hearings:

| City | Hearing date | Submit requests to testify to— | Hearing location |
|---|---|---|---|
| Seattle, Wash | Jan. 22, 1979 through Jan. 24, 1979. | Gilbert Haselberger, DOE, 1923 Federal Bldg., Seattle, Wash. 98174. | Hilton Hotel Downtown, 6th and University, Seattle, Wash. |
| Chicago, Ill | ....do | Ken Johnson, DOE, 175 West Jackson, 3d floor, Chicago, Ill. 60604. | Pick Congress Hotel, 520 South Michigan Ave., Chicago, Ill. |
| Washington, D.C | Jan. 23, 1979 through Jan. 25, 1979. | Margaret Sibley, Office of State Specific Programs, DOE, room 6456, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461. | Department of Energy, room 3000A, 12th and Pennsylvania Ave. NW., Washington, D.C. |

See "XII. Comment Procedures" under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

Michael Willingham, Director, State Specific Programs, Office of Conservation and Solar Applications, Room 6456, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8640.

SUPPLEMENTARY INFORMATION:



### I. Introduction.

The Department of Energy proposes to amend Chapter II of Title 10 CFR by adding Subparts C through I to a previously proposed new Part 455 (see Notice of Proposed Rulemaking, 43 FR 58158 *et seq.*, dated December 12, 1978). This proposed regulation will fulfill the requirements of Title III of NECPA, which amends Title III of the Energy Policy and Conservation Act (Act), Pub. L. 94-163, 89 Stat. 871, by adding Parts G and H. Part G of the Act establishes cost-sharing energy conservation grant programs for States and public and nonprofit schools and hospitals to assist in the conduct of preliminary energy audits and energy audits, identification of cost-effective energy conservation maintenance and operating procedures and in the evaluation, acquisition and installation of energy conservation measures to reduce the energy use and anticipated energy costs of schools and hospitals.

Part H of the Act establishes cost-sharing energy conservation grant programs for States, units of local government and public care institutions to assist in the conduct of preliminary energy audits and energy audits, identification of cost-effective energy conservation maintenance and operating procedures and in the evaluation of energy conservation measures to reduce energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

DOE has already published proposed regulations for providing financial assistance to States for the conduct of preliminary energy audits and energy audits (43 FR 58158 *et seq.*, dated December 12, 1978). This proposed regulation prescribes criteria and procedures (1) for development of State Plans and approval thereof by DOE, (2) for implementation of energy conservation measures in schools and hospitals and (3) for implementation of technical assistance programs for schools, hospitals, units of local government and public care institutions. Upon DOE approval of a State Plan, a State energy agency may accept and review applications for financial assistance from eligible institutions. If applications are approved by a State as being in conformance with its approved State Plan and this regulation, the State will forward the ap-

plications once during a grant program cycle to DOE. Subject to approval by DOE, grants may then be awarded. For purposes of this regulation, a "grant program cycle" is a period of time to be specified by DOE, which is related to the fiscal year for which grant funds are appropriated during which one complete cycle of grant activity occurs, including DOE allocation of appropriations to the States, application review and approval, and grant award.

Funds available to DOE for grant awards to a State or eligible institutions thereof will be limited to sums allocated to a given State based upon a formula which includes population, climate and fuel cost factors. Neither schools nor hospitals may receive more than 70 percent of the total amount allocated to a State for schools and hospitals programs. Except in the case of severe hardship for schools and hospitals, Federal funds available for grants for technical assistance programs and energy conservation measures must be matched with at least an equal share of non-Federal funds. Moneys for the non-Federal portion of any program or measure must come from State, local or private sources and cannot, for example, be derived from revenue sharing or any other Federal source.

Grants to a State for administrative expenses may also be made for up to 50 percent of such costs. However, a grant for this purpose will not exceed 5 percent of the total granted to all institutions in a given State for a grant program cycle. DOE is particularly interested in receiving comments on this aspect of the grants program. DOE proposes to utilize funds appropriated pursuant to section 397(b) of the Act for energy conservation project grants and section 400G(b) of the Act for technical assistant grants, to fund grants to States for the purpose of helping to defray the State's administrative expenses of evaluating, financial auditing, monitoring and other activities in connection with the various energy conservation programs for schools, hospitals, units of local government and public care institutions. The funds available for this purpose, while limited by this regulation to 5 percent of the amounts actually awarded in a given State in a particular year, would draw upon the entire amount appropriated for energy conservation projects in the case of schools and hospitals, and the entire sum appropriated for technical assistance programs in the case of units of local government and public care institutions. A limit on grants for State administrative expenses appears consistent with sections 398(a), 398(d) and 400F(d) of the Act. A 5 percent grant ceiling on such expenses is believed reasonable and generally consistent with administrative expense limitations of other Federal grant programs.

This proposed regulation is designed to assure consistency with related State programs so as to maximize the energy conservation goals of NECPA. It is anticipated that the grant programs established by DOE under the new Part 455 will effectively encourage the implementation of programs and measures which will promote energy conservation in facilities owned by schools, hospitals, public care institutions and units of local government in accordance with the Congressional purpose as stated in NECPA.

### II. Technical Assistance Programs

For these grant programs to realize their full potential, it is important that all no-cost and low-cost energy saving operating and maintenance procedures be undertaken as early as possible. Therefore, to be eligible for technical assistance program grants, all institutions must have instituted cost-effective energy conservation operation and maintenance procedures identified as a result of an energy audit. Operations and maintenance procedures are actions which require no significant investment in equipment or materials and which clearly reduce the energy use of the building, with no adverse effect on the quality or amount of services provided. They include procedures such as adjusting thermostats, improving furnace maintencnce or reducing air-change rates. Under these proposed regulations, a "cost-effective" procedure is an action which can be reasonably expected to result in energy cost-savings which exceed the costs, such as increased labor requirements associated with implementing the procedure. A significant portion of the energy savings potential of a facility can be realized through the implementation of sound operations and maintenance procedures.

For purposes of this regulation, the term "technical assistance" means a program or activity for (1) the conduct of specialized studies to identify and specify energy savings and related cost savings that are likely to be realized as a result of either modifying operation and maintenance procedures in a building, or acquiring and installing one or more energy conservation measures in a building, or both and (2) the planning or administration of such specialized studies. In addition, for States, schools and hospitals, which are eligible to receive grants to carry out energy conservation measures, the term "technical assistance" also means the planning or administration of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in a building.

A technical assistance program will include a detailed engineering analysis of a building to determine its cost-effective potential for conserving energy and using solar or other alternative energy resources. Under this proposed regulation such an audit will be conducted only by a "technical assistance auditor" qualified as such in accordance with applicable State standards or criteria. At a minimum, a technical assistance auditor must have experience in energy conservation matters and be a registered professional engineer, or an architect-engineer team. Grants for a technical assistance program will be available for buildings owned by units of local government, public care institutions, schools and hospitals.

Technical assistance auditors will not be permitted to have significant financial interests in the building for which technical assistance is to be performed, nor in the materials and equipment that are expected to be used. The individual(s) performing technical assistance audits will be required to provide to the grantee institution a statement certifying (1) as to the absence of any significant financial interest in the program and (2) as to their qualifications under State standards and DOE regulations to serve as a technical assistance auditor.

### III. Energy Conservation Measures

The grant program for schools and hospitals will offer financial assistance for the acquisition and installation of energy conservation measures after the completion of a technical assistance program, or its equivalent. The measures listed and defined in § 455.42 of the proposed regulation are not all-inclusive. Measures recommended by technical assistance auditors, but not listed in this regulation, may still be eligible for funding if shown to have the potential for saving a substantial amount of energy. Support for detailed designs, specifications and installation plans for the energy conservation measures proposed for funding will also be provided.

Although it appears that energy conservation measures have applicability to all regions of the Nation, the practicality of using a particular measure will be determined by calculation of the simple payback of that measure. DOE proposes that energy conservation measures having a simple payback period greater than 15 years will not be eligible for grants under this program. This limitation has been selected to permit consideration of a wide range of available technologies, while precluding the expenditure of limited funding to analyze very high cost energy conservation measures

having a long payback period. DOE solicits comments regarding the 15-year simple payback period limitation.

### IV. Allocation of Funds

From the funds appropriated for use in each grant program cycle DOE will offer financial assistance to conduct technical assistance programs and acquire and install energy conservation measures. NECPA requires that DOE allocate funds among the States on the basis of such factors as population, climate, fuel availability and fuel cost. The formula developed by DOE to allocate funds among the States presently contains population, climate and fuel cost factors. DOE solicits comments on methods for acquiring fuel availability data and on the feasibility of utilizing a fuel availability factor in the allocation formula. At such time as reliable fuel availability data is acquired, DOE may modify the allocation formula for subsequent grant program cycles.

Initially, funds will be allocated among the States on the basis of a three-part formula. Eighty-three percent of the funds appropriated for each fiscal year will be allocated on the basis of population and climate (heating and cooling degree days) factors. Seven percent of the funds will be allocated on an equal share basis. The latter percentage is utilized to insure that no State, not including the territories or the District of Columbia, is allocated less than 0.5 percent of the total amount available in any grant program cycle, as required by NECPA. Ten percent of the amounts appropriated will be allocated based upon a forecast of the average cost per million Btu's of energy consumed within a national region. Population figures for each State and the District of Columbia are based upon 1976 Bureau of Census estimates. Population figures for the territories were taken from the 1973 Bureau of Census estimates, the latest available for those areas. Population totals for both States and territories are set forth in Table 1. Fuel costs are based upon DOE projections to 1985 as published in the Administrator's Annual Report 1978, Energy Information Administration, and are set forth in Table 2. Climate information is taken from the National Oceanic and Atmospheric Administration State heating and cooling degree tables, reflecting the annual average by State for 30 years, 1941 through 1970. Table 3 presents this data.

Combining these factors as indicated by the proposed formula produces a State allocation factor as shown in Table 4.

[6450-01-C]

TABLE 1

| STATE | POPULATION (IN THOUSANDS) | STATE SHARE OF NATIONAL POP. |
|---|---|---|
| ALABAMA | 3665 | 0.0168 |
| ALASKA | 382 | 0.0018 |
| ARIZONA | 2270 | 0.0104 |
| ARKANSAS | 2109 | 0.0097 |
| CALIFORNIA | 21520 | 0.0988 |
| COLORADO | 2583 | 0.0119 |
| CONNECTICUT | 3117 | 0.0143 |
| DELAWARE | 582 | 0.0027 |
| DIST. OF COL. | 702 | 0.0032 |
| FLORIDA | 8421 | 0.0387 |
| GEORGIA | 4970 | 0.0228 |
| HAWAII | 887 | 0.0041 |
| IDAHO | 831 | 0.0038 |
| ILLINOIS | 11229 | 0.0516 |
| INDIANA | 5302 | 0.0243 |
| IOWA | 2870 | 0.0132 |
| KANSAS | 2310 | 0.0106 |
| KENTUCKY | 3428 | 0.0157 |
| LOUISIANA | 3841 | 0.0176 |
| MAINE | 1070 | 0.0049 |
| MARYLAND | 4144 | 0.0190 |
| MASSACHUSETTS | 5809 | 0.0267 |
| MICHIGAN | 9104 | 0.0418 |
| MINNESOTA | 3965 | 0.0182 |
| MISSISSIPPI | 2354 | 0.0108 |
| MISSOURI | 4778 | 0.0219 |
| MONTANA | 753 | 0.0035 |
| NEBRASKA | 1553 | 0.0071 |
| NEVADA | 610 | 0.0028 |
| NEW HAMPSHIRE | 822 | 0.0038 |
| NEW JERSEY | 7336 | 0.0337 |
| NEW MEXICO | 1168 | 0.0054 |
| NEW YORK | 18084 | 0.0830 |
| NORTH CAROLINA | 5469 | 0.0251 |
| NORTH DAKOTA | 643 | 0.0030 |
| OHIO | 10690 | 0.0491 |
| OKLAHOMA | 2766 | 0.0127 |
| OREGON | 2329 | 0.0107 |
| PENNSYLVANNIA | 11862 | 0.0545 |
| RHODE ISLAND | 927 | 0.0043 |
| SOUTH CAROLINA | 2848 | 0.0131 |
| SOUTH DAKOTA | 686 | 0.0031 |
| TENNESSEE | 4214 | 0.0193 |
| TEXAS | 12487 | 0.0573 |
| UTAH | 1228 | 0.0056 |
| VERMONT | 476 | 0.0022 |
| VIRGINIA | 5032 | 0.0231 |
| WASHINGTON | 3612 | 0.0166 |
| WEST VIRGINIA | 1821 | 0.0084 |
| WISCONSIN | 4609 | 0.0212 |
| WYOMING | 390 | 0.0018 |
| AMERICAN SAMOA | 28 | 0.0001 |
| GUAM | 100 | 0.0005 |
| PUERTO RICO | 2951 | 0.0135 |
| VIRGIN ISLANDS | 83 | 0.0004 |
| :: | | |
| U.S. TOTAL | 217820 | 1.0000 |

# TABLE 2

OIL IMPORT PRICE: 15.32

DEMAND REGION AVERAGE RETAIL PRICE SUMMARY IN 1978 $/MILLION BTUS

| SECTOR(FUEL) | DEMAND REGIONS NW-ENG. | NY/NJ | MID-ATL | S.-ATL | MIDWEST | S.-WEST | CENTRAL | N-CNTRL | WEST | N.-WEST | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RESIDENTIAL | 5.11 | 5.66 | 6.14 | 7.97 | 4.56 | 5.20 | 4.41 | 4.10 | 5.59 | 4.82 | 5.39 |
| (ELECT.) | 13.31 | 15.91 | 13.89 | 11.05 | 12.00 | 11.87 | 12.70 | 9.65 | 12.66 | 5.63 | 11.71 |
| (DIST.) | 3.89 | 3.97 | 4.16 | 4.23 | 3.79 | 3.90 | 3.69 | 3.87 | 3.85 | 3.85 | 3.93 |
| (LG) | 3.90 | 4.01 | 4.32 | 4.32 | 3.99 | 3.92 | 3.91 | 4.07 | 3.94 | 3.94 | 4.04 |
| (COAL) | 2.07 | 1.95 | 1.84 | 1.97 | 1.75 | 1.63 | 1.68 | 1.37 | 1.75 | 1.76 | 1.82 |
| (NG) | 4.53 | 4.13 | 3.58 | 3.15 | 3.11 | 2.39 | 2.11 | 2.26 | 3.35 | 3.65 | 3.09 |
| COMMERCIAL | 4.78 | 6.45 | 6.45 | 6.65 | 5.15 | 6.02 | 6.05 | 5.26 | 6.85 | 4.22 | 5.85 |
| (ELECT.) | 13.22 | 17.69 | 13.31 | 11.18 | 11.98 | 11.26 | 12.43 | 8.80 | 11.71 | 5.81 | 12.01 |
| (DIST.) | 3.64 | 3.71 | 3.76 | 3.76 | 3.60 | 3.64 | 3.51 | 3.64 | 3.56 | 3.56 | 3.66 |
| (RESID.) | 2.87 | 2.96 | 3.27 | 2.90 | 3.12 | 2.97 | 3.10 | 3.01 | 2.92 | 2.85 | 2.99 |
| (LG) | 3.27 | 3.27 | 3.27 | 3.27 | 3.49 | 3.27 | 3.46 | 3.47 | 3.27 | 3.27 | 3.38 |
| (COAL) | 2.07 | 1.95 | 1.84 | 1.97 | 1.75 | 1.63 | 1.68 | 1.37 | 1.75 | 1.76 | 1.82 |
| (ASPHALT) | 3.18 | 3.18 | 3.18 | 3.17 | 3.20 | 3.13 | 3.15 | 3.19 | 3.07 | 3.07 | 3.15 |
| (NG) | 3.86 | 3.53 | 3.11 | 2.63 | 2.78 | 2.46 | 3.46 | 3.13 | 2.83 | 3.05 | 2.94 |
| RAW MATERIAL* | 3.43 | 3.35 | 3.18 | 2.92 | 3.25 | 3.27 | 3.28 | 3.20 | 3.08 | 2.92 | 3.22 |
| (LG) | 3.61 | 3.61 | 3.61 | 3.58 | 3.59 | 3.54 | 3.52 | 3.56 | 3.44 | 3.44 | 3.54 |
| (OIL) | 3.18 | 3.18 | 3.18 | 3.17 | 3.20 | 3.13 | 3.15 | 3.19 | 3.07 | 3.07 | 3.15 |
| (NG) | 3.29 | 2.83 | 2.69 | 2.19 | 2.44 | 2.16 | 3.10 | 2.65 | 2.44 | 2.37 | 2.33 |
| INDUSTRIAL*** | 4.86 | 4.54 | 3.92 | 4.98 | 3.88 | 2.98 | 4.79 | 3.16 | 3.85 | 3.28 | 3.79 |
| (ELECT.) | 10.97 | 9.47 | 10.97 | 9.40 | 9.37 | 9.57 | 10.55 | 7.30 | 9.96 | 3.86 | 9.29 |
| (DIST.) | 3.64 | 3.69 | 3.86 | 3.85 | 3.60 | 3.63 | 3.50 | 3.66 | 3.56 | 3.56 | 3.67 |
| (RESID.) | 2.92 | 3.06 | 3.19 | 2.87 | 3.10 | 2.96 | 3.07 | 2.96 | 2.92 | 2.97 | 2.99 |
| (LG) | 3.66 | 3.74 | 3.95 | 3.96 | 3.82 | 3.70 | 3.76 | 3.85 | 3.69 | 3.69 | 3.79 |
| (COAL) | 2.07 | 1.95 | 1.84 | 1.97 | 1.75 | 1.63 | 1.68 | 1.37 | 1.75 | 1.76 | 1.76 |
| (MET COAL**) | 2.18 | 2.08 | 1.97 | 2.10 | 2.02 | 2.12 | 1.95 | 2.21 | 2.59 | 2.70 | 2.03 |
| (NAPHTHA) | 3.61 | 3.61 | 3.61 | 3.58 | 3.59 | 3.54 | 3.52 | 3.56 | 3.44 | 3.44 | 3.56 |
| (NG) | 3.29 | 2.83 | 2.69 | 2.24 | 2.44 | 2.16 | 3.10 | 2.65 | 2.44 | 2.37 | 2.31 |
| TRANSPORTATION | 5.74 | 5.79 | 5.67 | 5.63 | 5.67 | 5.22 | 5.52 | 5.49 | 5.38 | 5.42 | 5.55 |
| (ELECT.) | 12.44 | 14.25 | 12.35 | 10.33 | 10.61 | 10.64 | 11.74 | 8.59 | 11.37 | 4.96 | 13.22 |
| (DIST.) | 4.79 | 4.84 | 5.00 | 4.99 | 4.75 | 4.77 | 4.65 | 4.82 | 4.71 | 4.71 | 4.82 |
| (RESID.) | 2.92 | 3.06 | 3.19 | 2.87 | 3.10 | 2.96 | 3.07 | 2.96 | 2.92 | 2.97 | 2.99 |
| (LG) | 3.27 | 3.27 | 3.27 | 3.27 | 3.49 | 3.27 | 3.46 | 3.47 | 3.27 | 3.27 | 3.31 |
| (GASOLINE) | 6.05 | 6.27 | 6.03 | 5.94 | 5.96 | 5.73 | 5.83 | 5.87 | 6.01 | 6.02 | 5.96 |
| (JET FUEL) | 4.12 | 4.23 | 4.49 | 4.54 | 4.05 | 4.16 | 3.93 | 4.16 | 4.10 | 4.10 | 4.22 |
| AVERAGE PRICE | 5.16 | 5.62 | 5.08 | 5.76 | 4.67 | 3.83 | 5.01 | 4.40 | 5.11 | 4.42 | 4.82 |

*LIQUID GAS IN THE RAW MATERIAL SECTOR INCLUDES LIQUID GAS FEEDSTOCK.
**MET COAL INCLUDES 70% PREMIUM COAL AND 30% BITUMINOUS LOW SULFUR COAL.
***INDUSTRIAL SECTOR HERE DOES NOT INCLUDE REFINERIES.

TABLE 3

| STATE | HEATING DEGREE DAYS | COOLING DEGREE DAYS | STATE SHARE HDD + CDD |
|---|---|---|---|
| ALABAMA | 2695 | 1999 | 0.0134 |
| ALASKA | 12012 | 8 | 0.0344 |
| ARIZONA | 2298 | 2624 | 0.0141 |
| ARKANSAS | 3214 | 1892 | 0.0146 |
| CALIFORNIA | 2728 | 669 | 0.0097 |
| COLORADO | 7004 | 336 | 0.0210 |
| CONNECTICUT | 6130 | 507 | 0.0190 |
| DELAWARE | 4780 | 1021 | 0.0166 |
| DIST. OF COL. | 4750 | 1015 | 0.0165 |
| FLORIDA | 704 | 3368 | 0.0117 |
| GEORGIA | 2684 | 1859 | 0.0130 |
| HAWAII | 1 | 3528 | 0.0101 |
| IDAHO | 6917 | 415 | 0.0210 |
| ILLINOIS | 6058 | 950 | 0.0201 |
| INDIANA | 5713 | 952 | 0.0191 |
| IOWA | 6834 | 876 | 0.0221 |
| KANSAS | 4900 | 1543 | 0.0184 |
| KENTUCKY | 4414 | 1254 | 0.0162 |
| LOUISIANA | 1701 | 2636 | 0.0124 |
| MAINE | 8002 | 222 | 0.0235 |
| MARYLAND | 4782 | 1015 | 0.0166 |
| MASSACHUSETTS | 6232 | 467 | 0.0192 |
| MICHIGAN | 6739 | 593 | 0.0210 |
| MINNESOTA | 8729 | 473 | 0.0263 |
| MISSISSIPPI | 2411 | 2223 | 0.0133 |
| MISSOURI | 5024 | 1332 | 0.0182 |
| MONTANA | 8292 | 239 | 0.0244 |
| NEBRASKA | 6347 | 1099 | 0.0213 |
| NEVADA | 4370 | 1500 | 0.0168 |
| NEW HAMPSHIRE | 7535 | 297 | 0.0224 |
| NEW JERSEY | 5470 | 877 | 0.0182 |
| NEW MEXICO | 4766 | 972 | 0.0164 |
| NEW YORK | 5899 | 677 | 0.0188 |
| NORTH CAROLINA | 3392 | 1454 | 0.0139 |
| NORTH DAKOTA | 9484 | 421 | 0.0284 |
| OHIO | 5779 | 797 | 0.0188 |
| OKLAHOMA | 3508 | 2003 | 0.0158 |
| OREGON | 5254 | 193 | 0.0156 |
| PENNSYLVANNIA | 5755 | 723 | 0.0185 |
| RHODE ISLAND | 5924 | 445 | 0.0182 |
| SOUTH CAROLINA | 2697 | 1885 | 0.0131 |
| SOUTH DAKOTA | 7681 | 801 | 0.0243 |
| TENNESSEE | 3801 | 1458 | 0.0151 |
| TEXAS | 2015 | 2669 | 0.0134 |
| UTAH | 6580 | 630 | 0.0206 |
| VERMONT | 7873 | 293 | 0.0234 |
| VIRGINIA | 4286 | 1113 | 0.0155 |
| WASHINGTON | 5752 | 171 | 0.0170 |
| WEST VIRGINIA | 5108 | 849 | 0.0171 |
| WISCONSIN | 7531 | 541 | 0.0231 |
| WYOMING | 7895 | 326 | 0.0235 |
| AMERICAN SAMOA | 1 | 5325 | 0.0152 |
| GUAM | 1 | 5520 | 0.0158 |
| PUERTO RICO | 704 | 4907 | 0.0161 |
| VIRGIN ISLANDS | 704 | 5427 | 0.0176 |
| :: | | | |
| U.S. TOTAL | 271860 | 77389 | 0.9655 |

## TABLE 4

| STATE | .07*1/N+.1*SF/NF+.83*SPC/NPC= | | | ALLOCATION FACTOR |
|---|---|---|---|---|
| ALABAMA | .0013 | .0021 | .0112 | .0146 |
| ALASKA | .0013 | .0016 | .0030 | .0059 |
| ARIZONA | .0013 | .0019 | .0073 | .0104 |
| ARKANSAS | .0013 | .0014 | .0070 | .0097 |
| CALIFORNIA | .0013 | .0019 | .0475 | .0507 |
| COLORADO | .0013 | .0016 | .0123 | .0152 |
| CONNECTICUT | .0013 | .0019 | .0134 | .0166 |
| DELAWARE | .0013 | .0019 | .0022 | .0053 |
| DIST. OF COL. | .0013 | .0019 | .0026 | .0058 |
| FLORIDA | .0013 | .0021 | .0223 | .0257 |
| GEORGIA | .0013 | .0021 | .0147 | .0181 |
| HAWAII | .0013 | .0019 | .0020 | .0052 |
| IDAHO | .0013 | .0016 | .0040 | .0069 |
| ILLINOIS | .0013 | .0017 | .0511 | .0541 |
| INDIANA | .0013 | .0017 | .0230 | .0260 |
| IOWA | .0013 | .0018 | .0144 | .0175 |
| KANSAS | .0013 | .0018 | .0097 | .0128 |
| KENTUCKY | .0013 | .0021 | .0126 | .0160 |
| LOUISIANA | .0013 | .0014 | .0108 | .0135 |
| MAINE | .0013 | .0019 | .0057 | .0089 |
| MARYLAND | .0013 | .0019 | .0156 | .0188 |
| MASSACHUSETTS | .0013 | .0019 | .0253 | .0285 |
| MICHIGAN | .0013 | .0017 | .0434 | .0464 |
| MINNESOTA | .0013 | .0017 | .0237 | .0267 |
| MISSISSIPPI | .0013 | .0021 | .0071 | .0105 |
| MISSOURI | .0013 | .0018 | .0197 | .0228 |
| MONTANA | .0013 | .0016 | .0042 | .0071 |
| NEBRASKA | .0013 | .0018 | .0075 | .0106 |
| NEVADA | .0013 | .0019 | .0023 | .0055 |
| NEW HAMPSHIRE | .0013 | .0019 | .0042 | .0074 |
| NEW JERSEY | .0013 | .0021 | .0303 | .0336 |
| NEW MEXICO | .0013 | .0014 | .0044 | .0070 |
| NEW YORK | .0013 | .0021 | .0773 | .0806 |
| NORTH CAROLINA | .0013 | .0021 | .0172 | .0206 |
| NORTH DAKOTA | .0013 | .0016 | .0041 | .0070 |
| OHIO | .0013 | .0017 | .0457 | .0487 |
| OKLAHOMA | .0013 | .0014 | .0099 | .0126 |
| OREGON | .0013 | .0016 | .0082 | .0111 |
| PENNSYLVANNIA | .0013 | .0019 | .0499 | .0531 |
| RHODE ISLAND | .0013 | .0019 | .0038 | .0070 |
| SOUTH CAROLINA | .0013 | .0021 | .0085 | .0119 |
| SOUTH DAKOTA | .0013 | .0016 | .0038 | .0067 |
| TENNESSEE | .0013 | .0021 | .0144 | .0178 |
| TEXAS | .0013 | .0014 | .0380 | .0407 |
| UTAH | .0013 | .0016 | .0058 | .0086 |
| VERMONT | .0013 | .0019 | .0025 | .0057 |
| VIRGINIA | .0013 | .0019 | .0177 | .0208 |
| WASHINGTON | .0013 | .0016 | .0139 | .0168 |
| WEST VIRGINIA | .0013 | .0019 | .0070 | .0102 |
| WISCONSIN | .0013 | .0017 | .0242 | .0272 |
| WYOMING | .0013 | .0016 | .0021 | .0050 |
| AMERICAN SAMOA | .0013 | .0019 | .0001 | .0032 |
| GUAM | .0013 | .0019 | .0004 | .0035 |
| PUERTO RICO | .0013 | .0021 | .0108 | .0141 |
| VIRGIN ISLANDS | .0013 | .0021 | .0003 | .0037 |
| :: | | | | |
| U.S. TOTAL | .0700 | .1000 | .8300 | 1.0000 |

NECPA requires that, except for schools and hospitals in a class of severe hardship, The Federal share of the costs for any program or measure may not exceed 50 percent and the remainder of the costs of any technical assistance program or energy conservation measure must be provided from non-Federal sources. DOE proposes that in-kind contributions may be considered as part or all of the non-Federal share. In-kind contributions are subject to the limitations established in Subpart E of the proposed regulation and must be directly related to the program or measure to be approved. The inclusion of a school or hospital in the severe hardship category for up to 90 percent funding of a program or measure will be determined, among other factors, by the applicant's inability to match the 50 percent Federal share, by climatalogical conditions and by fuel costs or availability. DOE solicits comments on the criteria to be used in determining which schools and hospitals are in a class of severe hardship and the method for determining the maximum Federal share for any institution in a class of severe hardship.

Appropriations for support of this grant program will be made to DOE annually, one appropriation for programs and measures for schools and hospitals, another appropriation for technical assistant programs for units of local government and public care institutions. Separate allocations, using the formula described above, will be made to each State for each appropriation. DOE will inform each State of all allocation (and reallocation) actions.

Once a grant is made to a State or institution thereof, DOE anticipates that the funds will be obligated and expended in accordance with milestones established in the grant application. In the event a State does not forward a sufficient number of grant applications to DOE to award all funds allocated for use within that State in a given grant program cycle, DOE will reallocate such funds among all the States for the succeeding grant program cycle.

### V. State Plans

A State Plan is the planning document for organizing and managing technical assistance programs and energy conservation measures within the State for the duration of the entire grant program. States participating in the program will be responsible for preparing and implementing a DOE approved State Plan. A State's review, ranking and recommendation to DOE regarding applications received from prospective grantees will also be governed by the State Plan.

Each State will be responsible for direct oversight, monitoring and financial auditing of the programs and measures for which grants are awarded in that State to ensure compliance with program requirements. States will be responsible for notifying DOE promptly of any indication of noncompliance or misuse of grant funds. State Plans shall contain a description of the policies and procedures the State proposes to use in order to fulfill these responsibilities.

Basic data gathered about buildings as a result of the preliminary energy audits should be summarized in the State Plan, and estimates should also be made of possible energy savings, energy conservation needs and the number and types of buildings that may qualify for further financial assistance.

Key elements in the State Plan are the criteria and the procedures to be used in evaluating and ranking applications for financial assistance. Each State may establish in its State Plan any requirements, additional to those set forth in this regulation, which it considers necessary for planning and administering technical assistance programs and energy conservation measures in the State. States should, however, avoid placing undue administrative burdens on any applicants. State Plans must assure that equitable consideration is given to all eligible institutions.

The views of eligible institutions or Statewide organizations representing such institutions, or both, should be solicited and considered during the development of the State Plan. State Plans should also be reviewed by State school facilities agencies and State hospital facilities agencies, where such exist within a given State.

Until a State Plan, approved by DOE, for a given State is in effect, no financial assistance for technical assistance programs or energy conservation measures will be made available to institutions within that State.

State Plans must also set forth the extent to which, and by which methods, the State will encourage utilization of solar space heating, cooling and electric systems and solar water heating systems.

DOE recognizes that some States and municipalities have retained some regulations or building codes which may have the effect of impeding the introduction of energy-saving devices and equipment, particularly in the case of solar energy systems. Therefore, early review of applicable State regulations and local codes is encouraged to identify any restrictions on or barriers to achievement of energy conservation goals which must be taken into account in formulating and implementing State Plans.

### VI. Applications

Applications for technical assistance program grants and energy conservation measures grants will be forwarded by the applicant to the State for its review, evaluation and ranking in priority according to criteria contained in the State Plan. Applicants must include all of the information required by Subpart E of the proposed regulation and any additional information required by the State. Applications which are consistent with the State Plan and applicable regulations should, at the time specified by DOE, be transmitted by the State to DOE for final approval and grant award. State applications for grants, including grants to defray administrative expenses, should be transmitted to DOE at the same time. Comments are requested concerning the scope and clarity of the requirements set forth in Subpart E of the proposed regulation and the ability of applicants to comply with those provisions.

### VII. State Evaluation and Ranking of Applications

States will be responsible for reviewing and evaluating each application received for consistency with the State Plan, this regulation, and other applicable State, local and Federal laws and regulations. As an additional means for assuring that the programs and measures proposed for funding are coordinated with other State and Federal programs, as required by NECPA, States must forward applications received from schools and hospitals to the applicable State school facilities agency or State hospital facilities agency for review and certification as to compliance with State programs for educational facilities and State health plans.

States shall rank each building for which funding applications have been submitted. Such ranking must be based upon the energy conservation potential of the building as determined through an energy audit. States must also give preference to those applicants that have completed an energy audit without the use of Federal funds. States shall be responsible for developing any further specific ranking procedures and criteria for inclusion in a State Plan.

Simple payback periods will be the main criteria used to rank buildings covered by grant applications for energy conservation measures. Lifecycle costing, discounted payback and simple payback methodologies were considered for use as criteria for ranking applications. The simple payback methodology was chosen because it offers an opportunity to standardize payback calculations and thereby ease administration, and because it directly reflects the energy cost savings accru-

ing from an energy conservation measure.

For applications for financial assistance to implement energy conservation measures, Subpart F of the proposed regulation specifies the criteria which will be evaluated by the State. Each State will assign a specific weight, as justified by the conditions within the State, to each criterion set forth in the regulation and listed in order of descending priority. Thus, the projected payback period criterion must be given the greatest weight, conversion to renewable energy sources the next greatest weight, etc.

### VIII. Program Reports.

It is important that the energy and cost savings achieved by participating institutions through this grants program be documented, not only to allow better monitoring of the operation of the grants program, but also to demonstrate what has been accomplished by the various energy conservation programs for schools, hospitals, units of local government and public care institutions. To this end, DOE proposes that each grantee submit an interim report to the State semi-annually until the program or measure is completed. This interim report should summarize progress and accomplishments, problems encountered, and other relevant information. Each State in turn will submit a semi-annual report to DOE summarizing the information received from the grantees. At the end of the program or measure, each grantee will also submit a final technical report to the State describing the work accomplished and the results achieved. A summary of that technical report must be forwarded to DOE simultaneously with the transmittal of the basic report to the State.

### IX. Grant Awards

Under Title III of NECPA, DOE may make grants of up to 50 percent of the cost of a technical assistance program to States, schools, hospitals, public care institutions and units of local governments, and up to 50 percent of the cost of an energy conservation measure to States, schools and hospitals.

As part of any grant award for technical assistance or energy conservation measures, DOE may concurrently grant up to 5 percent of the total of all grants made to institutions in a given State in a grant program cycle directly to that State to help defray its expenses of administration. The award of such grants on a cost-sharing basis should assure sufficient funds to the State to carry out its planning and administrative responsibilities under the program.

The total of all grant awards to schools and hospitals for funding technical assistance programs may not exceed 30 percent of the amounts appropriated to DOE for energy conservation project grants (pursuant to section 397(b) of the Act for the fiscal year ending September 30, 1978; 15 percent of such appropriations for the fiscal year ending September 30, 1979; and 5 percent of such appropriations for the fiscal year ending September 30, 1980.

### X. Reporting Requirements

U.S. Government standard forms for grant-in-aid programs will be used insofar as possible. If there are any exceptions to this policy, they will be examined and justified element by element. At this time, the only modifications to the standard reporting requirements are to be included in the "Remarks" section of Standard Form 424. The proposed items are:

1. Certification of applicant eligibility,
2. Specific building identification,
3. Energy use and savings data,
4. Statement regarding implementation of cost-effective recommendations,
5. Detailed schedule of project activities,
6. Reports of other prerequisite actions taken in conjunction with this program,
7. Assurances regarding potential conflicts of interest,
8. Statements regarding the qualifications of technical assistance auditors, and
9. Statements regarding compliance with provisions of the Davis-Bacon Act and other Federal, State and local laws and regulations.

### XI. Nondiscrimination

DOE has published a proposed rulemaking in the Federal Register entitled, "Nondiscrimination in Federally Assisted Programs", 43 FR 53658 *et. seq.*, November 16, 1978. Where applicable, grantees will be responsible for compliance with the provisions of that rulemaking upon publication of that final rulemaking.

### XII. Comment Procedures

#### (1) WRITTEN COMMENTS

Interested persons are invited to submit written comments with respect to the proposed regulation to the Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the document with the designation "TA/ECP". Fifteen (15) copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. All comments and related information must be received by January 28, 1979, before 4:30 p.m., e.s.t., in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a statement of confidentiality will not be treated as confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

#### (2) PUBLIC HEARINGS

DOE has determined that, in addition to the hearing in Washington, D.C., it will hold hearings in Chicago, Illinois and Seattle, Washington to receive oral presentations from interested persons.

The Washington, D.C. hearing will be held at 9:30 a.m., e.s.t., on January 23, 24, and 25, 1979, Room 3000A, 12th and Pennsylvania Ave., N.W., Washington, D.C.

Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Margaret Sibley, Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, and must be submitted on or before January 17, 1979, by 4:30 p.m., e.s.t. The person making the request should describe his or her interest in the proceeding and provide a concise summary of the proposed oral presentation and a phone number where he or she may be reached. Each person who, in DOE's judgment, proposes to present relevant material and information shall be selected to be heard and shall be notified by DOE of his or her participation before 4:30 p.m., e.s.t., January 19, 1979, and shall submit 15 copies of their proposed statement to Margaret Sibley, Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 by 9 a.m., e.s.t., January 23, 1979.

The hearings in Chicago, Illinois and Seattle, Washington will be held beginning at 9:30 a.m., local time, on the dates and at the locations specified below.

Any person who has an interest in this proceeding or is the representative of a group or class of persons which has an interest in it may make a written request for an opportunity to

make an oral presentation. Such a request should be directed to DOE, at the address given below for the appropriate city and must be received before 4:30 p.m., local time on January 17, 1979. Procedures for notification shall be the same as in the case of the Washington, D.C. hearing.

DOE also received comments and assistance from its Regional Offices.

In accordance with DOE's obligation under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, DOE is undertaking an environmental assessment of all programs under Title III of the NECPA.

| City | Hearing date | Submit requests to testify to— | Hearing location |
|---|---|---|---|
| Seattle, WA | Jan. 22, 1979 through Jan. 24, 1979. | Gilbert Haselberger, DOE, 1923 Federal Building, Seattle, WA 98174. | Hilton Hotel Downtown, 6th and University, Seattle, WA |
| Chicago, IL | Jan. 22, 1979 through Jan. 24, 1979. | Ken Johnson, DOE, 175 W. Jackson, Third Floor, Chicago, IL 60604. | Pick Congress Hotel, 520 South Michigan Ave., Chicago, IL |

### C. CONDUCT OF HEARINGS

DOE reserves the right to arrange the schedule of presentations to be heard and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated as presiding officer to chair the hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA 152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

## XIII. CONSULTATION WITH OTHER FEDERAL AGENCIES, ENVIRONMENTAL AND URBAN REVIEWS AND REGULATORY ANALYSIS

In preparing this proposed regulation, issues and options were reviewed by representatives of the Secretary of the Department of Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency. This assessment and any additional NEPA review will be completed prior to the promulgation of the final rulemaking. NECPA also requires DOE to issue a final rule for these grant programs within a specified period after enactment. DOE seeks to afford members of the public at least 30 days to comment on this notice of proposed rulemaking. Consequently, DOE is unable to complete an environmental assessment to accompany this notice of proposed rulemaking.

This proposed regulation has been reviewed in accordance with Executive Order 12044, 43 FR 12661, and DOE's proposed directive implementing the Order published at 43 FR 18634 and, pursuant thereto, it has been determined to be a "significant regulation" likely to have a "major impact". A regulatory analysis is being prepared by DOE and will be made available to the public before issuance of a final regulation. Notwithstanding the determination that this proposed regulation is significant, which would usually require a 60 day comment period, the Deputy Secretary has approved a shorter comment period so that, consonant with the requirements of NEPCA, the final rule may be issued at the earliest practicable date.

This proposed regulation has also been reviewed in accordance with OMB Circular A-116 to assess the impacts on urban centers and communities. DOE has determined that the proposed regulation is a major policy and program initiative which requires formal urban and community impact analysis. Such analysis is being prepared by DOE for incorporation into the regulatory analysis required under Executive Order 12044.

DOE has been advised by the Office of Management and Budget (OMB) that this program is exempted from the requirements of OMB Circular A-95.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In consideration of the foregoing, the Department of Energy proposes to amend Chapter II, Title 10 of the Code of Federal Regulations by adding new Subparts C through I to Part 455 as set forth below.

Issued in Washington, D.C., December 29, 1978.

OMI WALDEN,
*Assistant Secretary, Conservation and Solar Applications, Department of Energy.*

10 CFR Part 455 is amended by establishing new Subparts C, D, E, F, G, H and I as follows:

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**Subpart I—Allocation of Appropriations Among the States**



AUTHORITY: Parts 1 and 2 of Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, which establishes Parts G and H, respectively, of Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*; Section 365(e)(2), 42 U.S.C. 6325 (e)(2), of the Energy Conservation and Production Act, Pub. L. 94-385, 42 U.S.C. 6801 *et seq.*; Department of Energy Organization Act, Pub. L. 95091, 42 U.S.C. 7101 *et seq.*; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 41 U.S.C. 501 *et seq.*; E.O. 12009, 42 FR 46267; E.O. 12044, 43 FR 12661.

**Subpart C—Technical Assistance Programs for Schools, Hospitals, Units of Local Government and Public Care Institutions**

**§ 455.40 Purpose and scope.**

This subpart sets forth the contents of technical assistance programs that may receive financial assistance under this part and determines the eligibility of States, as well as schools, hospitals, units of local government and public care institutions located in States that have an approved State Plan to receive grants for technical assistance to be performed in buildings owned by such institutions.

**§ 455.41 Eligibility.**

To be eligible to receive financial assistance for a technical assistance program, an applicant must—

(a) Be a State, school, hospital, unit of local government or public care institution as defined in § 455.2;

(b) Be a State having, or be located in a State which has, an approved State Plan as described in Subpart H of this part;

(c) Subsequent to the most recent construction, configuration or utilization change to the building, have conducted an energy audit or its equivalent, as determined by the State, for the building or buildings for which financial assistance is to be requested;

(d) Assure that it has implemented all cost-effective operations and maintenance procedures which are identified as a result of the energy audit;

(e) Have no plan or intention at the time of application to close such building or buildings for which financial assistance is to be requested within the simple payback period of any measure proposed for the building; and

(f) Submit an application in accordance with the provisions of this part and the approved State Plan.

**§ 455.42 Contents of program.**

(a) A technical assistance program shall include a detailed engineering analysis of a building by a technical assistance auditor to identify energy and cost savings likely to be realized as a result of implementing all cost-effective operation and maintenance procedures (in addition to those identified in an energy audit) and also, one or more energy conservation measures, including measures for conversion to solar or other alternative renewable energy sources.

(b) At the conclusion of a technical assistance program, the technical assistance auditor shall prepare a final report which shall include—

(1) A description of building characteristics and energy data including—

(i) Name and address of the building and its owner;

(ii) Weather and climate data including building orientation, shading, solar radiation, etc.;

(iii) Function of and use patterns for the building frequency and normal occurrence of energy consumption peaks;

(iv) Mechanical details for the heating, ventilation and air conditioning (HVAC) systems;

(v) Operating characteristics of other energy using systems, such as domestic hot water, lighting, and control systems;

(vi) Age and remaining useful life of the building; and

(vii) Any other relevant information developed during an energy audit of the building;

(2) An analysis of the estimated energy consumption of the building, in Btu's, at peak efficiency (assuming implementation of all cost-effective operations and maintenance procedures);

(3) An analysis of the building's potential for solar conversion, particularly for water heating systems;

(4) A description and analysis of all recommendations, if any, for acquisition and installation of energy conservation measures (including potential solar conversion) setting forth—

(i) A description of each recommended energy conservation measure;

(ii) An estimate of the cost of each such energy conservation measure;

(iii) An estimate of the energy cost savings expected from acquisition and installation of each energy conservation measure. In calculating the potential energy cost savings of each energy conservation measure, technical assistance auditors shall—

(A) Assume that all energy savings obtained from cost-effective operation and maintenance procedures identified by an energy audit or by the technical assistance program have been realized; and

(B) Calculate the total energy and energy cost savings expected to result from the acquisition and installation of all recommended energy conservation measures, taking into account the interaction among the various measures; and

(C) Calculate that portion of the total energy and energy cost savings as determined in (B) above, attributable to each individual energy conservation measure;

(iv) The simple payback period of each such energy conservation measure. The simple payback period is calculated by dividing the estimated cost of the measure by the estimated annual cost saving accruing from the measure. For the purposes of ranking applications, the simple payback period must be calculated using the cost saving resulting from energy savings only. Other economic analyses, such as life cycle costing, which consider all costs and cost savings, such as maintenance costs and/or savings, resulting from an energy conservation measure, may be provided as additional information for use by the institution in its decision-making process.

**Subpart D—Energy Conservation Measures for Schools and Hospitals**

**§ 455.50 Purpose and scope.**

This subpart specifies what constitutes an energy conservation measure that may receive financial assistance under this part and sets forth the eligibility criteria for States, schools and hospitals located in States, which have an approved State Plan, to receive grants for energy conservation measures, including measures for conversion to solar, other renewable sources, or alternative energy resources.

**§ 455.51 Eligibility.**

(a) To be eligible to receive financial assistance for an energy conservation measure, an applicant must—

(1) Be a State, school, or hospital and otherwise meet the requirements contained in § 455.2;

(2) Be a State having, or be located in a State which has, an approved State Plan as described in Subpart H of this part;

(3) Subsequent to the most recent construction, configuration or utilization change to the building, have completed a technical assistance program or its equivalent, as determined by the State, for the building or buildings for which financial assistance is to be requested;

(4) Have implemented all cost-effective operation and maintenance procedures which are identified as the result of an energy audit and a technical assistance program;

(5) Have no plan or intention at the time of application to close such building or buildings for which financial assistance is to be requested within the

simple payback period of any energy conservation measure within each building for which financial assistance is requested; and

(6) Submit an application in accordance with the provisions of this part and the approved State Plan.

(b) To be eligible for financial assistance, the simple payback period of each energy conservation measure for which financial assistance is requested within each building shall not be greater than 15 years.

§ 455.52 Contents of program.

The program to be funded under this Subpart will be energy conservation measures acquired and installed to reduce energy consumption or allow the use of alternative energy sources for schools and hospitals. Such measures may include but not necessarily be limited to—

(a) Insulation for bare pipes, water heaters, hot water storage tanks, chilled water piping, ductwork and other uninsulated mechanical equipment carrying an above or below ambient temperature fluid, which resists heat transfer from the mechanical systems to the surrounding space;

(b) Roof insulation, using new or additional material (applied, sprayed or rigid) which resists heat transfer through the roof;

(c) Ceiling insulation, installed either above or below the ceiling to resist heat transfer through the ceiling;

(d) Wall insulation, using a rigid or sprayed material, installed to resist heat transfer through the wall;

(e) Floor insulation, using a material which resists heat transfer through the floor between the first level heated space and the unheated space beneath it;

(f) Storm windows, which are an additional window, normally installed to the exterior, but which may be installed to the interior of the primary or ordinary window, to increase resistance to heat transfer, and to decrease air infiltration through the window assembly;

(g) Storm doors, which are an extra door installed to the exterior of an exterior door, but also may be installed as part of the entrance vestibule, to decrease heat transfer and air infiltration through the building entrance ways;

(h) Multiglazed window or door systems, which are a single glass unit consisting of multiple layers of glass separated by hermetically sealed air spaces, which provide greater resistance to heat transfer;

(i) Reduction in glass area through use of bricking, insulated paneling, etc., which decreases heat transfer and air infiltration;

(j) Heat absorbing or heat reflective glazed and coated window and door systems, which are specially treated, coated or laminated glazing systems to absorb or reflect solar heat;

(k) Caulking, which is nonrigid material placed in joints of buildings or window or door systems to prevent the passage of air and moisture through the building envelope;

(l) Weatherstripping, which consists of strips of flexible material placed over, under, or in movable joints of windows and doors to reduce the passage of air and moisture;

(m) Automatic energy control systems, such as mixed air temperature reset devices; cooling coil discharge temperature reset devices; hot deck temperature reset devices; economizer controls; enthalpy controls; night setback thermostats; time clocks to start/stop selected HVAC systems, refrigeration equipment, boilers, chillers, hot water generators, plus associated pumps and fans, thermostatic radiator valves, and central computer control systems, which adjust the supply of heating, cooling, and ventilation to meet space conditioning requirements;

(n) Equipment required to operate or convert to variable energy supply, including—

(1) Hydraulic ventilating systems which are adjusted by the automatic energy control systems to turnoff or vary the consumption of energy systems to deliver no more energy than required at any operating point;

(2) Constant volume air distribution systems altered to variable air flow systems by the addition of variable air flow boxes, fan volume control dampers and related climatic controls; or

(3) Water spray coils for adiabatic cooling during optimum weather conditions;

(o) Passive solar systems (those using gravity, heat absorption or reflection, evaporation, etc.) which collect and transfer energy (including south facing windows, trombe walls, and awnings) without the use of mechanical devices;

(p) Solar space heating or cooling systems, which consist of solar collectors, and associated thermal storage, heat exchangers, pumps/fans, controls and piping/ducting;

(q) Solar electric generating systems, which consist of photovoltaic solar collectors and associated electric storage and controls, or concentrating solar collectors and generating equipment, or wind energy conversion systems;

(r) Solar domestic hot water heating systems, which consist of solar collectors, and associated thermal storage, heat exchangers, pumps, controls, and piping for thermal demand, such as domestic hot water, laundry, kitchen, and boiler water makeup;

(s) Furnace or utility plant modifications, which consist of the installation of equipment to achieve reduction in fuel consumption, or to convert to renewable energy sources or coal, including—

(1) Replacement burners, furnaces, boilers, or any combination thereof, which are designed to substantially reduce the amount of fuel consumed as a result of increased combustion efficiency;

(2) Electrical or mechanical furnace ignition systems which eliminate continuous energy use;

(3) Devices for modifying flue openings, such as dampers and heat exchangers, which increase the efficiency of the total heating systems;

(4) Automatic combustion control systems, which improve burner operating performance to reduce consumption of fuel during full and part load operation;

(5) Devices, such as turbulators and flow restrictors, for modifying boiler capacity and hot water units to reduce oversized equipment to a proper size (after the other building modifications), which increase the full and part load efficiency of the primary equipment; and

(6) Equipment required to convert existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

(t) Lighting fixtures modifications and associated rewiring, which reduce the watts per square foot level of illumination through use of such measures as high frequency ballasts, phantom tubes, lamp sources of higher efficiency, improved luminaires, use of non-uniform task/ambient lighting design, while maintaining lighting levels for task perfomance. Lighting fixtures modifications that increase the general illumination level of a facility shall not be eligible for funding unless the increase is necessary to conform to any applicable State or local building code or unless such increase is approved by the Secretary;

(u) Energy recovery systems which reduce energy used in heating and cooling systems by—

(1) Direct recycling of uncontaminated air, which has been conditioned, to an adjacent area for heating, cooling or ventilation makeup;

(2) Exhaust air heat recovery to preheat outside air supply with heat recovery devices such as rotary air wheels, plate heat exchangers, non-regenerative heat-pipe devices, and runaround loop systems; or

(3) Purifying with charcoal or other mediums and recycling exhaust air from toilet areas, dining rooms, and lounges, and other building areas;

(v) Cogeneration systems which produce steam, heat, or other forms of energy as well as electricity for use

primarily within a building or complex of buildings and which meet such fuel efficiency requirements as may be prescribed or approved by DOE and which may be new heat recovery equipment added to existing electrical generation systems;

(w) Any other measures as a grant applicant shows will save a substantial amount of energy or as are identified in an energy audit prescribed pursuant to section 365(e)(2) of the Energy Policy and Conservation Act. Such measures must be specifically identified in any grant application, including a complete description of the measure together with calculations and other technical data supporting the projected cost and energy savings.

### Subpart E—Applicant Responsibilities

#### § 455.60 Grant application submittals.

(a) Each eligible State, school, hospital, unit of local government and public care institution desiring to receive financial assistance for costs of technical assistance programs, or, in the case of an eligible State, school or hospital, for costs of energy conservation measures, relating to a building of buildings owned by such entity shall file an application in accordance with the provisions of this Subpart and the approved State Plan of the State in which such building is located. The application, which may be amended in accordance with applicable State procedure at any time to the State's final determination thereon, shall be filed with the State energy agency designated in the applicable approved State Plan.

(b) An application for financial assistance for costs of technical assistance programs shall include—

(1) The applicant's name and address;

(2) A written statement certifying that the applicant is eligible under § 455.41;

(3) Identification of each building for which financial assistance is requested, to include information required by 10 CFR in § 455.42(a)(1) through (5);

(4) A statement of current energy use by building (Btu/sq.ft./yr.);

(5) Estimate of energy savings, by building (Btu/sq.ft./yr.), resulting from implementation of operations and maintenance procedures identified in the energy audit;

(6) A project budget, by building, which identifies the sources and amounts of non-Federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments", which are directly related to the project and do not include funds derived from revenue sharing or other Federal sources), to be used to meet the costsharing requirements described in Subpart G; and

(7) A brief description, by building, of the proposed technical assistance program, scheduling and milestone dates for achieving the overall technical assistance program objective and associated estimated costs;

(8) Schedules and milestone dates for the conduct and completion of technical assistance programs for each building.

(c) Applications from a State, school or hospital for financial assistance for costs of energy conservation measures shall include—

(1) The applicant's name and address;

(2) A written statement certifying that the applicant is eligible under § 455.51;

(3) Identification of each building for which financial assistance is requested, to include information required by 10 CFR 450.42(a) (1) through (5);

(4) A written statement that cost effective operation and maintenance procedures identified as a result of a technical assistance program have been implemented in each building by the applicant;

(5) A project budget, by building, which shall include identification of the sources and amounts of non-Federal funds to be used to meet the costsharing requirements described in Subpart G of this part;

(6) A statement of the applicant's ability to provide required matching non-Federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments", which are directly related to the project and do not include funds derived from revenue sharing or other Federal sources), and the proposed sources and method of financing;

(7) Schedules and milestone dates for the completion of the acquisition and installation of energy conservation measures for each building;

(8) A listing, by building, of the specific energy conservation measures proposed for funding, indicating the cost of each measure, the estimated energy saving of each measure, the projected simple payback period for each measure, computed in accordance with the methodology described in § 455.42(b)(4) (iii) and (iv), and the average simple payback period of all measures proposed for the building. The average simple payback period shall be determined by dividing the total cost of all measures proposed by the total projected saving (from energy savings only) accruing from all measures proposed;

(9) A technical assistance program report for each building, the program for which was conducted subsequent to the most recent construction, configuration or utilization change to the building;

(10) If the application covers any of the measures set forth in § 455.52 (p), (q), (r), (s), (u), and (v) above, sufficient data for DOE to evaluate the environmental impacts of those measures. For any other measure set forth in § 455.52 if the applicant is aware of any adverse impacts which may arise from the adoption of such measures, the applicant shall provide an analysis of such impacts with the application.

(d) Financial assistance for units of local government and public care institutions will be provided only for buildings which are owned and primarily occupied by offices or agencies of a unit of local government or public care institution and which are not intended for seasonal use and not utilized primarily as a school or hospital.

(e) Financial assistance provided to a school which is a local education agency as defined in § 455.2 must not be used for acquisition or installation of any energy conservation measure in any building of such agency which is used principally for administration, or technical assistance in connection with any such undertaking for such a building.

(f) Financial assistance will not be provided for technical assistance programs or energy conservation measures commenced prior to November 9, 1978.

#### § 455.61 Applicant certifications.

(a) Applications for financial assistance for technical assistance programs and energy conservation measures shall include a signed statement that the applicant—

(1) Has satisfied the requirements set forth in § 455.60;

(2) Will expend granted funds for the purposes stated in the application and in compliance with the requirements of this Part and the applicable approved State Plan;

(3) Has implemented all cost-effective operation and maintenance procedures recommended as a result of the energy audit and, for applications for energy conservation measures, those recommended in the report obtained under a technical assistance program;

(4) Will obtain from the technical assistance auditor, before the auditor performs any work in connection with a technical assistance program or energy conservation measure, a signed statement certifying that the technical assistance auditor has no conflicting financial interests and is otherwise qualified to perform the duties of a technical assistance auditor in accordance with the standards and criteria

established in the approved State Plan; and

(5) Will not enter into any contract relating to an energy conservation measure (except technical assistance), which requires or may require expenditure of more than $5,000 (excluding technical assistance costs), that does not conform to the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-5) pertaining to minimum wages for construction in the applicant's locality.

§ 455.62 Grant applications for State administrative expenses.

(a) Each State desiring to receive a grant for State administrative expenses shall file an application therefor in accordance with the provisions of this section. The application shall be submitted to DOE at the time the State forwards approved grant applications for technical assistance programs and energy conservation measures.

(b) Applications for financial assistance for State administrative expenses shall include—

(1) The name and address of the person designated by the State to be responsible for the State's functions under this Part;

(2) A projected itemized budget for State administrative expenses listed in § 455.83(b) and limited thereunder;

(3) A statement of the State's ability to provide required matching non-Federal funds, including in-kind contributions (limited to the goods and services described in OMB Circular A-102 which are directly related to the project and do not include funds derived from revenue sharing or other Federal sources), and the proposed method of financing.

§ 455.63 Grantee records and reports.

(a) Each State, school, hospital, unit of local government and public care institution which receives a grant for technical assistance programs, energy conservation measures or State administrative expenses shall keep all the records required by § 455.4.

(b) In January and June of each year each grantee shall, until the grantee's program has been concluded, submit a report to the State which shall detail and discuss—

(1) Activities accomplished, those not accomplished, status of in-progress activities, problems encountered, and remedial actions, if any, planned;

(2) Cost-effective operation and maintenance procedures and energy conservation measures studied, recommended, or installed, with accompanying projected or actual costs, energy and cost savings, payback periods and specifying any material variances from those projected in the original applications; and

(3) Financial status reports completed in accordance with OMB circulars listed in § 455.3. Financial status reports must be submitted simultaneously to both the State and DOE.

(c) Within 90 days following conclusion of a technical assistance program or completion of an energy conservation measure by a grantee, the grantee shall submit a final report to the State and a summary thereof to DOE which shall detail and discuss, as applicable—

(1) A summary of all work accomplished;

(2) Problems encountered and recommended solutions;

(3) Results achieved under the program;

(4) Final financial reports completed in accordance with OMB circulars listed in § 455.3;

(5) For a completed technical assistance program—

(i) A complete inventory and description of major energy-using equipment and systems;

(ii) Calculated energy consumption for the building (assuming the implementation of all cost-effective operations and maintenance procedures);

(iii) Differences between the calculated energy consumption and the actual energy consumption of the building;

(iv) Recommended changes in operation and maintenance procedures indicating the energy and cost savings anticipated;

(v) Recommended energy conservation measures indicating the energy cost savings anticipated, and the cost of acquiring and installing the measures (with simple payback periods) in order of ascending payback period, that is, ranked in order with the lowest payback first; and

(vi) A recommended implementation plan, grouped into categories of energy saving operation and maintenance procedures, and energy conservation measures. Energy conservation measures will be presented in order of ascending payback period;

(6) For completed energy conservation measures, (1) through (4) above, and

(i) A complete inventory and description of major energy-using equipment and systems;

(ii) A complete inventory and description of modifications to and construction and installation of major energy-using equipment and systems;

(iii) A final projected simple payback period, computed in accordance with § 455.42(b)(4)(iv), for each building specifying and utilizing the actual costs for each measure and all the measures, taken as a whole; and

(iv) Certification by the technical assistance auditor that the modifications (material, equipment and installation) made conform in all respects to the report on the technical assistance program and the approved application.

Subpart F—State Responsibilities

§ 455.70 State evaluation of grant applications.

(a) Each application received by a State shall be reviewed and evaluated to determine whether it complies with Subparts C, D and E of this part, any additional requirements of the approved State Plan State environmental laws, and other applicable laws and regulations.

(b) The State will forward each application for a school or hospital to the State school facilities agency or the State hospital facilities agency, as the case may be, for review and certification that such application is consistent with related State programs for educational facilities, and State health plans under sections 1524(c)(2) and 1603 of the Public Health Service Act, and has been coordinated through the review mechanisms under section 1523 of the Public Health Service Act and section 1122 of the Social Security Act. No application from a school or hospital shall be approved until such certification has been issued.

§ 455.71 State ranking of grant applications.

(a) All applications received by the State will be ranked by the State on an individual building by building basis. In the case of energy conservation measures, a complex may be ranked as a single building if the application proposes a single energy conservation measure which directly involves all of the buildings in the complex. States shall rank buildings in descending priority, based upon the following factors—

(1) The average simple payback period of all energy conservation measures proposed for the building;

(2) The type(s) of energy source to which conversion is proposed (with weighting adjustments directly proportional to the ratio of the cost of the conversion measure to the total cost of all measures proposed for a given building, including in descending priority)—

(i) Renewable;

(ii) Coal;

(iii) Electricity (as primary, baseload fuel)—

(A) Nuclear fired;

(B) Coal fired;

(3) The type(s) of primary energy to be saved (with weighting adjustments directly proportional to the ratio of the cost of the energy saving measure to the total cost of the energy saving measure to the total cost of all measures proposed for a given building), including in descending priority—

(i) Natural gas;

(ii) Oil;
(iii) Electricity (as primary, base-load fuel)—
(A) Natural gas fired;
(B) Oil fired;
(C) Coal fired;
(D) Nuclear fired;
(4) Remaining useful life of building;
(5) Climate within the State;
(6) Fuel prices or fuel availability within the State;
(7) Other factors as determined by the State.

(b) Each State shall develop separate groupings for ranking all buildings covered by applications, in compliance with the State Plan, for—
(1) Technical assistance programs for units of local government and public care institutions;
(2) Technical assistance programs for schools and hospitals; and
(3) Energy conservation measures for schools and hospitals.

(c) Within each grouping, a State shall set forth the ranking of each building, the amount of financial assistance requested for each such building. A State shall also indicate which of the buildings in the ranking are approved by the State for financial assistance, and which of those approved, the State recommends for funding, within the limits of the State's allocations.

(d) Within each grouping of ranked of buildings, a State shall assure that—
(1) Schools receive not more than 70 percent of the total funds allocated for schools and hospitals to the State in the grant program cycle for schools and hospitals;
(2) Hospitals receive not more than 70 percent of the total funds allocated for schools and hospitals to the State in the grant program cycle for schools and hospitals; and
(3) School and hospital applicants for Federal funding in excess of 50 percent on the basis of severe hardship under § 455.71 receive in the aggregate no more than 10 percent of the funds allocated to the State in the grant program cycle for schools and hospitals.

(e) To the extent provided in § 455.82 (c), additional financial assistance with be available for schools and hospitals experiencing severe hardship as determined in accordance with this part, and funding therefor will be taken from the funds reserved for grants up to 90 percent of the total costs of the technical assistance program and/or energy conservation measures.

(f) Applications for Federal funding in excess of 50 percent based on claims of severe hardships shall be given an additional evaluation and ranking, and identified within groupings of building rankings. The amount of the proposed Federal share in excess of 50 percent for each building shall be specified within each grouping, and the sum of the all the grants in excess of the 50 percent requested for buildings covered by severe hardship grant applications shall be provided separately.

(g) The criteria for the evaluation and ranking of severe hardship applications are list below in the descending order in which weights for each factor are to be applied by the State—
(1) Inability to provide the 50 percent non-Federal program costs;
(2) Fule costs and availability which differ significantly from the average within the State; and
(3) Climatological conditions which differ significantly from the average conditions within the State.

(h) In determining the maximum Federal share for an institution in a given locality that is in a class of severe hardship, States shall use the U.S. Department of Commerce publication, *Qualified Areas Under the Public Works and Economic Development Act of 1965, as amended.* Institutions in those locations listed in the publication may be eligible for Federal funding for this program at the "Maximum Grant Rate" assigned to that location in such publication, plus 10 percent.

### § 455.72 Forwarding of applications.

Each State shall, once each grant program cycle, within the period specified by DOE and published in the FEDERAL REGISTER, forward to DOE those applications that the State recommends for financial assistance, ranked pursuant to the provisions of § 455.71.

### § 455.73 State Duties.

(a) Each State shall be responsible for—
(1) Notifying each applicant, within 60 days following receipt by the State of the application or the last amendment thereof whether its application has been approved and recomended for funding;
(2) Direct program oversight, monitoring and financial auditing of the activities for which grants are awarded to its institutions to insure compliance with all legal requirements. States shall immediately notify the Secretary of any non-compliance or indication thereof.

(b) Each State shall submit a report to DOE—
(1) By the close of the sixth month following State Plan approval by DOE, and in each March thereafter for the duration of the grant program, describing generally—
(i) The operations of the program;
(ii) Problems encountered and recommended solutions;
(iii) Program related financial expenditures by the grantees and the State;
(2) By the close of the twelfth month following State Plan approval by DOE and in each August thereafter for the duration of the grant program, giving—
(i) A narrative on the program, including objectives accomplished, problems encountered and recommended solutions;
(ii) A detailed report on program related financial expenditures by all grantees and by the State; and
(iii) A summary of the most recent reports received by the State pursuant to § 455.63.

## Subpart G—Grant Awards

### § 455.80 Approval of grant applications

(a) The Secretary shall review and approve applications submitted by a State in accordance with § 455.72 and in accordance with the State's ranking of buildings contained in such applications if the Secretary determines that the applications meet the objectives of the Act, and comply with the applicable State Plan and the requirements of this Part. The Secretary may disapprove all or any portion of an application to the extent that funds are not available to carry out a program or project (or portions thereof) contained in the application, or for such other reasons as the Secretary may deem appropriate.

(b) The Secretary shall notify a State and the applicant of the final approval or disapproval of an application at the earliest practicable date after the Secretary's receipt of the application, and, in the event of disapproval, shall include a statement of the reasons therefor. An application which has been disapproved may be amended and resubmitted within the same grant program cycle with the consent of the Secretary.

(c) The Secretary may also, after reasonable notice and hearing, terminate financial assistance under a previously approved application if the Secretary determines the applicant has failed to comply substantially with the terms and conditions set forth in the application and this subpart.

### § 455.81 Grant Awards For Units Of Local Government and Public Care Institutions.

(a) The Secretary may make grants to States, units of local governments and public care institutions of up to 50 percent of the costs of performing technical assistance programs for buildings covered by an application approved in accordance with § 455.80.

(b) Total grant awards within any State to units of local government and public care institutions are limited to

the funds allocated to each State in accordance with Subpart I of this part.

(c) No grant awarded under this section for a technical assistance program shall include funding for the purchase of an item of equipment having an acquisition cost in excess of $500.

### § 455.82 Grant Awards For Schools and Hospitals.

(a) The Secretary may make grants to States, schools and hospitals of up to 50 percent of the costs of performing technical assistance programs for buildings covered by an application approved in accordance with § 455.80, subject to the following—

(1) Total grant awards within any State to schools and hospitals are limited to the funds allocated to each State in accordance with Subpart I of this part;

(2) Grant awards for technical assistance programs in any State within any grant program cycle shall not exceed—

(i) 30 percent of the amount allocated to a given State from the 1978 fiscal year appropriation for technical assistance programs and energy conservation measures for schools and hospitals;

(ii) 15 percent of the amount allocated to a given State from the 1979 fiscal year appropriation for technical assistance programs and energy conservation measures for schools and hospitals; or

(iii) 5 percent of the 1980 fiscal year appropriation for technical assistance programs and energy conservation measures for schools and hospitals.

(b) The Secretary may make grants to States, schools and hospitals of up to 50 percent of the costs of acquiring and installing energy conservation measures for buildings covered by an application approved in accordance with § 455.80. Total grant awards within any State are limited to the funds allocated to each State in accordance with Subpart I of this part.

(c) The Secretary may award up to 10 percent of the total amount allocated to a State for technical assistance programs and energy conservation measures, in a given grant program cycle, to cover more than 50 percent but not to exceed 90 percent of the cost of a technical assistance program or an energy conservation measure for applicants in a class of severe hardship, as ascertained in accordance with the State Plan.

(d) The Secretary shall not award more than 70 percent of the total amount allocated to a State for technical assistance programs and energy conservation measures in a given grant program cycle to either schools or hospitals in that State.

(e) No grant awarded under this section for a technical assistance program shall include funding for the purchase of an item of equipment having an acquisition cost in excess of $500.

### § 455.83 Grant Awards For State Administrative Expenses.

(a) Concurrently with grant awards for approved applications for institutions in a given State, the Secretary may make a grant to that State in an amount not exceeding 5 percent of the total amount of such awards for the purpose of defraying State expenses in the administration of technical assistance programs and energy conservation measures within that State. Grants for such purposes may be made for up to 50 percent of a State's projected administrative expenses, as approved by the Secretary.

(b) A State's administrative expenses shall be limited to those directly related to administration of technical assistance programs and energy conservation measures, including costs associated with—

(i) Personnel, whose time is expended directly in support of such administration;

(ii) Supplies, expended directly in support of such administration;

(iii) Equipment purchased or acquired solely for, and utilized directly in support of such administration, provided that no items of equipment costing more than $200 shall be acquired without the express consent of DOE;

(iv) Printing, directly in support of such administration; and

(v) Travel, directly related to such administration.

## Subpart H—State Plan Development and Approval

### § 455.90 Contents of State Plan.

Each State shall develop a State plan for technical assistance programs and energy conservation measures. The State Plan shall be reviewed and approved by the Governor of the State or the State energy agency and shall include—

(a) A statement setting forth the procedures by which the views of eligible institutions or State-wide organizations representing such institutions, or both, were solicited and considered during development of the State Plan;

(b) A description of the preliminary energy audit results (described in Subpart B of this part) which have been conducted in the Sate including, but not limited to—

(1) In the case of a State which has completed preliminary energy audits of all potentially eligible buildings, a summary of the data gathered pursuant to § 450.42 for all such buildings;

(2) In the case of a State which has completed preliminary energy audits of a sample of all potentially eligible buildings within the State—

(i) Reasonably accurate estimates of the preliminary energy audit data required by § 450.42 for all potentially eligible buildings within the State; and

(ii) A plan which describes further actions to be taken in order to obtain the required information for all potentially eligible buildings;

(3) Estimates of the energy savings, by class of building, expected to result from modification of maintenance and operating procedures and installation of energy conservation measures in such buildings;

(4) Recommendations as to the number and estimated cost of technical assistance programs and types and estimated costs of energy conservation measures for each grant program cycle;

(c) A description of the policies and procedures to be used by the State for evaluating grant applications;

(d) A description of the policies and procedures that the State will follow to insure that funds will be allocated equitably among eligible applicants within the State, including procedures to insure that funds will not be allocated on the basis of size or type of institution but rather on the basis of relative need taking into account such factors as cost, energy consumption and energy savings. Such policies and procedures shall be in accordance with § 455.71;

(e) A description of the policies and procedures that the States will follow in the identification, ranking and allocation of funds to severe hardship applicants which are eligible to receive financial assistance in excess of the otherwise applicable 50 percent limit. Such policies and procedures shall be in accordance with § 455.71(g);

(f) A Statement setting forth the extent to which, and by which methods, the State will encourage utilization of solar space heating, cooling and electric systems and solar water heating systems;

(g) A description of the policies and procedures to assure that all financial assistance under this part will be expended in compliance with the requirements of the State Plan, in compliance with the requirements of this part, and in coordination with all other State and Federal energy conservation programs;

(h) A description of the policies and procedures to insure implementation of cost-effective energy conserving maintenance and operating procedures in those buildings for which financial assistance is awarded under this part;

(i) A description of the policies and procedures designed to insure that financial assistance under this part will be used to supplement, and not to supplant, State, local or other funds;

(j) A description of the policies and procedures for establishment of, and

adherence to, milestones for accomplishment of technical assistance programs and energy conservation measures receiving financial assistance under this part;

(k) A description of the policies and procedures for State management, financial audit and evaluation of technical assistance programs and energy conservation measures receiving financial assistance under this part;

(l) A description of the program of the State for establishing and insuring compliance with qualifications for technical assistance auditors. Such policies shall require at a minimum that a technical assistance auditor have experience in energy conservation and be a registered professional engineer licensed under the regulatory authority of the State, or be an architect-engineer team the members of which are licensed under the regulatory authority of the State, and that a technical assistance auditor be free from financial interests which may conflict with the proper performance of his or her duties;

(m) A description of the policies and procedures for apportionment of funds among eligible institutions within the State. As a minimum such policies and procedures shall assure a separate priority ranking for each building pursuant to the provisions of § 455.71 covered by an application approved pursuant to the provisions of § 455.70 for—

(1) Technical assistance programs for units of local government and public care institutions;

(2) Technical assistance programs for schools and hospitals; and

(3) Energy conservation measures for schools and hospitals.

### § 455.91 Submission and Approval of State Plans.

(a) Proposed State Plans shall be submitted to the Secretary within 90 days of the effective date of this Subpart unless the Secretary, upon request and for good cause shown, grants an extension of time.

(b) The Secretary shall, within 60 days of receipt of a proposed State Plan, review each Plan and, if it is found to conform to the requirements of this part, approve the State Plan. If the Secretary does not disapprove a State Plan within the 60-day period, the Secretary will be deemed to have approved the State Plan.

(c) If the Secretary determines that a proposed State Plans fails to comply with the requirments of this part, the Secretary shall return the Plan to the State with a statement setting forth the reasons for disapproval. With the consent of the Secretary, the State may submit a new or amended Plan at any time.

### § 455.92 State Plans Developed by the Secretary.

(a) If a State Plan has not been approved by February 7, 1981, or within 90 days after completion of the preliminary energy audits, whichever is later, the Secretary may develop and implement a State Plan on behalf of the schools and hospitals in the State.

(b) Subsequent to the development of a State Plan by the Secretary, the State may submit its own State Plan and the Secretary shall approve or disapprove such plan within 60 days after receipt by the Secretary. If the proposed plan meets the requirements of this part, and is not inconsistent with any plan developed and implemented by the Secretary, the Secretary shall approve the State Plan which shall automatically replace the Plan developed by the Secretary.

## Supbart I—Allocation of Appropriations Among the States.

### § 455.100 Allocation of Funds.

The Secretary will allocate available funds for the purpose of awarding grants to States, schools, hospitals, units of local government and public care institutions to implement grant programs for schools and hospitals and buildings owned by local government and public care institutions in accordance with this subpart.

### § 455.101 Allocation Formulas.

(a) Financial assistance for conducting technical assistance programs for units of local government and public care institutions shall be allocated among the States by multiplying the sum available by the allocation factor set forth in paragraph (c) of this section.

(b) Financial assistance for conducting technical assistance programs and acquring and installing energy conservation measures for schools and hospitals shall be allocated among the States by multiplying the sum available by the allocation factor set forth in paragraph (c) of this section.

(c) The allocation factor (K) shall be determined by the formula—

$$K = \frac{0.07}{n} + 0.1\left(\frac{Sfc}{Nfc}\right) + 0.83\left(\frac{(SP)}{(NP)}\frac{(SC)}{(NC)}\right)$$

where, as determined by DOE—

(1) $S_{fc}$ is the average retail cost per million Btu's of energy consumed within the region in which the State is located, as reflected in the 1985, Series C projections contained in DOE's Energy Information Administration Administrator's Annual Report, 1978;

(2) $N_{fc}$ is the national average retail cost per million Btu's of energy consumed, as reflected in the 1985, Series C projections contained in DOE's Energy Information Administration Administrator's Annual Report 1978;

(3) n is the total number of eligible States;

(4) SP is the population of the State, as determined from 1976 census estimates, "Current Population Reports", Series P-25, number 603;

(5) NP is 217,820,000, the total population of all eligible States;

(6) SC is the sum of the State's heating and cooling degree days, as determined from National Oceanic and Atmospheric Administration data for the thirty year period, 1941 through 1970;

(7) NC is 349,249, the sum of all eligible States' heating and cooling degree days.

(d) Except for the District of Columbia, Puerto Rico, Guam, American Samoa and the Virgin Islands, no allocation available to any State may be less than 0.5 percent nor more than 10 percent of the total amount appropriated.

(e) Ten percent of each State's allocation each year for schools and hospitals shall be apportioned by the State for additional financial assistance, in excess of the 50 percent Federal share, up to 90 percent of the costs of technical assistance programs and energy conservation measures for those schools and hospitals determined to be in a class of severe hardship. Such determinations shall be made in accordance with § 455.71(g).

(f) By notice published in the FEDERAL REGISTER, the Secretary shall notify each State of the total amount allocated for grants within the State for any grant program cycle. For purposes of this regulation, grant "program cycle" is a period of time to be specified by DOE, which is related to the fiscal year for which grant funds are appropriated during which one complete cycle of grant activity occurs, including DOE allocation of appropriations to the States, application review and approval, and grant award.

(g) By notice published in the FEDERAL REGISTER, the Secretary will notify each State of the period for which funds allocated for a grant program cycle will be reserved for grants within the State.

### § 455.102 Reallocation of Funds.

(a) If a State Plan has not been approved and implemented by any State by the close of the period for which allocated funds are available as set forth in the notice(s) issued by the Secretary pursuant to § 455.101(g) funds allocated to that State for technical assistance and energy conservation measures will be reallocated among all States for the next grant program cycle, if applicable.

(b) If a State Plan has not been approved by February 7, 1981, or within ninety days after completion of the preliminary energy audits, whichever is later, the Secretary may develop and implement a State Plan on behalf of the schools and hospitals within the State. If the Secretary does not develop a State Plan for a State, the funds reserved for that grant program cycle for schools and hospitals in that State will be reallocated for the next grant program cycle among all States for schools and hospitals.

(c) If a State does not forward a sufficient number of grant applications, which are approved by the Secretary, to award all the funds allocated for the State in that grant program cycle, the Secretary shall reallocate the remaining funds among all States for the next grant program cycle.

(d) If a State does not forward a sufficient number of grant applications, which are approved by the Secretary under the severe hardship provisions set forth in § 455.71(g), to award all of the funds allocated to the State for that purpose in that grant program cycle, the Secretary shall reallocate the remaining hardship funds among all States for the next grant program cycle.

**§ 455.103 Reallocation of Preliminary Energy Audit/Energy Audit Funds.**

(a) If a State has utilized Federal assistance to cover in excess of 50 percent of the costs for conducting preliminary energy audits and energy audits, the amount of such excess over 50 percent shall be subtracted from that State's allocation for technical assistance and energy conservation projects and reallocated among all other States for the next grant program cycle according to the formula set forth in § 455.101.

(b) To the extent that funds allocated to a State for preliminary energy audits and energy audits are not needed because all potentially eligible buildings have had an energy audit or its equivalent conducted, such funds may be made available for technical assistance or energy conservation measures. DOE shall, upon request by the State, redistribute funds not needed for preliminary energy audits and energy audits to the State allocation for technical assistance or energy conservation measures, as appropriate and such funds shall be in addition to those which would otherwise be available for such purposes.

[FR Doc. 79-407 Filed 1-2-79; 3:12 pm]

Federal Register

FRIDAY, JANUARY 5, 1979
PART VIII


# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Office of Assistant Secretary for Housing—Federal Housing Commission

■

# PUBLIC HOUSING AGENCIES—OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

### Utility Allowances; Uniform Procedures

[4210-01-M]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**Office of Assistant Secretary for Housing—Federal Housing Commissioner**

**[24 CFR Part 865]**

[Docket No. R-78-607]

**PHA-OWNED PROJECTS—PROJECT MANAGEMENT**

**Utility Allowances**

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule will establish a uniform procedure for determining the amount of utility allowances, surcharges and energy savings credits to tenants of dwelling units owned or leased by Public Housing Agencies (PHA's) and assisted under the United States Housing Act of 1937, as amended. Utility allowances are established presently in accordance with HUD guidelines last revised in 1963. The proposed rule will alleviate the confusion arising under the 1963 Guide and will be consistent with national and Departmental energy conservation goals. The proposed rule will not be applicable to the Section 8 Housing Assistance Payments Program or to the Mutual Help Homeownership Program.

COMMENTS DUE: February 20, 1979. Comments received before February 20, 1979, will be considered before adoption of a final rule in this matter.

ADDRESSES: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. (202) 755-5603.

FOR FURTHER INFORMATION CONTACT:

Richard M. Ulf, Chief, Maintenance and Utility Branch, Office of Public Housing, Housing—Federal Housing Commissioner, Department of Housing and Urban Development, Washington, D.C. 20410 (202-755-5840).

SUPPLEMENTARY INFORMATION: The Department proposes to amend Title 24 by changing "Part 865—PHA-Owned Projects—Project Management" to read "Part 865—PHA-Owned or Leased Projects—Maintenance and Operation"; by renumbering §§ 865.401 through 986.410 as §§ 865.450 through 865.459; and by adding new §§ 865.470 through 865.476,, "Tenant Allowances for Utilities".

Under 24 CFR 860.403 the cost of reasonable amounts of utilities is included in the tenant's rent; consequently, there is a need for PHAs to establish utility allowances which define and are based on "reasonable" consumption. For tenants who purchase their utilities directly from the utility supplier, the allowance is set in the form of monetary credits against their gross rents. For tenants whose units are served by a checkmetered, mastermetered system, the utility allowances will be stated in units of energy consumed (e.g., kilowatt-hours of electricity), and the cost of consumption not exceeding the allowance will be included in the rent. (This proposed rule does not alter the provisions of 24 CFR 866.4(b)(2) which specifies that "imposition of charges for consumption of excess utilities is permissible only if such charges are determined by an individual checkmeter servicing the leased unit or result from the use of major tenant-supplied appliances).

After consideration of all feasible methods, including the use of national or local consumption norms, the Department now proposes to base allowances on the actual consumption data for each project. This would most accurately reflect the many variables affecting utility usage (e.g., building type and age, construction materials, climatic conditions).

The proposed rule, in addition, provides that all utility allowances will be calculated on the basis of the average consumption levels of the various sized dwelling units within each individual project as adjusted to reflect consumption trends or other projected changes in utility usage. For PHA checkmetered utilities it specifies that no surcharges shall be imposed for consumption which exceeds the allowance by less than 15 percent and that tenants shall receive "energy savings credits" to be applied to rents if their consumption is more than 15 percent below the established allowance. Surcharges and credits are limited to one-third of a tenant's gross rent for the period covered. Allowances are required to be reexamined annually and adjusted, as necessary, to reflect changes, either increases or decreases, in consumption patterns or in utility rates.

During the draft of this proposed regulation, several alternative methods of determining the allowances were discussed. One proposal was to make the guidelines of 1963 mandatory by setting allowances for PHA metered projects at 20 percent above average use. This approach would be consistent with past HUD policy but would now be mandatory; thus, it would require those PHAs which have not yet set allowances on this basis to do so.

Another approach, which would minimize the number of tenants affected by surcharges, would establish allowances at the average consumption level plus 50 percent and provide for credits if consumption level is 50 percent or more below the average. This method, it has been estimated, would result in surcharges for approximately 15 percent of the tenants residing in checkmetered projects and provide credits to a comparable number of families.

HUD, after considering these alternatives, has decided to propose an allowance set at the average consumption for each project with provisions for charges and credits as described above. In view of national concerns about energy conservation, HUD believes that this approach will encourage more tenants to use energy responsibly and would generally be a more effective energy conservation measure. Tenant welfare concerns are given cognizance through the provisions limiting surcharges to one-third of rents which are established at an amount no more than 25 percent of family income.

In arriving at this conclusion HUD is relying heavily upon experience, supported by utility company data, indicating that projects with tenant-furnishing utilities consume up to 10 percent of less than similar projects with checkmetered, project-furnished utilities. Further, actual projects that have been changed to retail service from mastermetering have registered up to 35 percent reductions in electrical consumption. The results of a study by the Federal Energy Administration, "Energy Conservation Implication of Mastermetering," October 1975, also support the concept that significant energy conservation is achieved when all tenants are directly affected. The idea of granting energy savings credits as an inherent part of the allowance system is an added effort to assure that a sizable proportion of tenants will have tangible conservation incentives.

The use of average consumption for project-furnished utilities also is consistent with the specified level of allowances set by HUD for tenant-furnished utilities (i.e., direct retail service). This level of allowances for tenant-furnished utilities is necessary in order to avoid providing larger aggregate allowances for utilities than the amounts tenants in projects with tenant-furnished utilities are paying to utility companies. Equity as to gross rents paid under the two utility supply situations is a goal in setting these rates, and HUD believes that goal should be attained through extension of the allowance level applicable in tenant-supplied projects to those which are checkmetered. At this time there are approximately twice as many public housing units with

tenant-furnished utilities as there are units in checkmetered projects.

Although HUD recognizes that administrative costs will be increased because of the surcharge-rebate system, it believes the resulting reduction in energy consumption will off-set the additional costs of billing or crediting amounts to approximately fifty (50) percent of the tenants. This figure is based on the difference between the number of tenants affected under the proposed regulation (80 percent) and the number (30 percent) that would be affected if the allowance were set at fifty (50 percent) above/below average consumption.

The argument has been made that, because of skewed distribution patterns, surcharges for a smaller percentage of tenants will result in a smaller reduction of housing authority income than when allowances are established as proposed. This idea has not been considered to be pertinent, even if true, because HUD's objective is to reduce energy consumption overall, and not to derive additional income from possible aberrations in the consumption patterns of certain projects. By specifying allowances based on average consumption, surcharges and credits should be approximately equal over a period of time, thereby balancing the outlays and collections for the Authority.

The argument has been made that unless weatherization of units precedes conversion to individual metering, the utility allowance, as proposed, should be considerably more lenient. It has been tentatively decided that each activity shall proceed separately, and that energy conservation activity including both conversion to individual metering and weatherization efforts, will be made a high priority under the Modernization Program. In any event, since individual project data is used in establishing allowances, weatherization improvements (or the lack thereof) have a minimal impact on charges.

In summary, HUD has relied heavily on the experience of past years in utilizing allowances for tenant-furnished utilities at the average consumption level. HUD considers establishment of allowances for project-furnished utilities at a level comparable to allowances for tenant-furnished utilities to be of prime importance in assuring equal treatment of residents and appropriate attention to energy conservation as a vital national objective. HUD, however, specifically solicits comments on the above or on any other proposals as to the levels of allowances that will best meet national energy conservation objectives and provide fair and equal treatments to all public housing tenants. HUD is particularly interested in receiving factual analyses related to the most appropriate methods for determining utility allowances, the level of those allowances, the cost to tenants for surcharges under alternative methods of establishing allowances and administrative costs to be anticipated.

Interested persons are invited to participate in the making of this rule by furnishing such written comments, data and suggestions as they may desire. All such materials should refer to Docket No. R-78-607 and should be filed with the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Copies of all written comments received will be available for public inspection at the above address during regular business hours, both before and after the close of comment period.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of the Finding of Applicability will be available for public inspection during regular business hours at the above address.

It is hereby certified that the economic and inflationary impacts of the Proposed Rule have been carefully evaluated in accordance with Executive Order No. 11821.

Accordingly, it is proposed to amend Title 24 by changing "Part 865—PHA-Owned Projects—Project Management" to read "Part 865—PHA-Owned or Leased Projects—Maintenance and Operation," by renumbering §§ 865.401 through 865.410 as §§ 865.450 through 865.459 and by adding new §§ 865.470 through 865.476 "Tenant Allowances for Utilities," to read as follows:

## PART 865—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

* * * * *

### Subpart D—Utilities

INDIVIDUAL METERING OF UTILITIES FOR EXISTING PHA-OWNED PROJECTS

Sec.
865.450 Purpose.
865.451 Definitions.
865.452 Individually metered service.
865.453 Benefit/Cost Analysis.
865.454 Funding.
865.455 Order of conversion.
865.456 Actions affecting tenants.
865.457 Compliance schedule.
865.458 Waivers for similar projects.
865.459 Reevaluation of mastermeter system.

TENANT ALLOWANCES FOR UTILITIES

865.470 Purpose.
865.471 Applicability.
865.472 Definitions.
865.473 Establishment of allowances for PHA-furnished utilities.
865.474 Establishment of Surcharges.
865.475 Establishment of Energy Savings Credits.
865.476 Establishment of allowances for tenant-furnished utilities.

AUTHORITY: Sec. 6(a)(4) United States Housing Act of 1937 (42 U.S.C. 1437d); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

#### Tenant Allowances for Utilities

§ 865.470 Purpose.

The purpose of §§ 865.470 through 865.476 is to establish uniform procedures to be used by PHA's in establishing tenant allowances for utilities. Tenant "rent" includes the cost of a reasonable amount of utilities. Utility allowances are necessary to reimburse or credit tenants who pay a utility supplier directly for their utilities; to serve as a basis for Surcharges to tenants with excessive utility consumption; and to determine Energy Saving Credits for tenants who consume less than their allowance.

§ 865.471 Applicability.

The provisions of § 865.470 through 865.476 are applicable to all dwelling units assisted under the United States Housing Act of 1937 in projects owned by or leased to PHA's and leased or subleased by PHA's to tenants, except the Section 8 Housing Assistant Payments Program and the Mutual Help Homeownership Opportunities Program.

§ 865.472 Definitions.

(a) "Allowances for PHA-furnished Utilities" means reasonable amounts of utilities (e.g., kilowatt-hours of electricity) that are to be supplied by the PHA to tenants. These amounts are included in the tenant's Contract Rent and shall be measured with Checkmeters. Separate allowances shall be established for dwelling units of various sizes (i.e., number of bedrooms), or various types of construction (i.e., detached, rowhouse, etc.) and for each Utility service that is checkmetered, and shall be appropriately adjusted to reflect seasonal variations in the use of utilities. PHA's shall to the extent feasible also consider pysical characteristics of dwellings (i.e., top floor units, exterior walls, etc.).

(b) "Allowances for Tenant-Furnished Utilities" means the dollar amounts that are to be credited to the Gross Rents of tenants who obtain part or all of their utilities under Retail Service. Separate allowances shall be established for each Utility Service paid by the tenant, for units of various sizes (i.e., number of bedrooms), for various types of construction (i.e., detached, rowhouse, etc.), and shall be appropriately adjusted for seasonal variations. PHA's shall to the extent feasible also consider physi-

cal characteristics of dwellings (i.e., top floor units, exterior walls, etc.).

(c) "Checkmeter" means a device for measuring Utility consumption within each individual dwelling unit where the Utility Service is supplied to the PHA through a Mastermeter. The PHA then ascertains from its reading of the Checkmeter the amount of tenant usage.

(d) "Contract Rent" means the rent charged a tenant for the use of the dwelling accommodation and equipment (such as ranges and refrigerators, but not including furniture), services, and reasonable amount of Utilities determined in accordance with the PHA's schedule of Allowances for Utilities supplied by the project. Contract Rent does not include charges for utility consumption in excess of a PHA's schedule of allowances for utilities, or other miscellaneous charges. The definintions of Contract Rent is not the same as contract rent for purposes of Parts 880 to 889 of Title 24.

(e) "Energy Savings Credits" means credits or rebates to tenants for using less of a Utility Service than the Allowance for PHA-Furnished Utilities included in Contract Rent. The amount of savings is determined by use of a Checkmeter.

(f) "Gross Rent" means Contract Rent plus the PHA's estimate of the cost to the tenant of reasonable amounts of Utilities determined in accordance with the PHA's schedule of allowances for such Utilities, where such Utilities are purchased by the tenant and not included in the Contract Rent. This definition of Gross Rent is not the same as gross rent for the purposes of Part 880 to 889 of Title 24.

(g) "Mastermeter System" means a Utility distribution system in which a PHA is supplied Utility Service by a Utility supplier through a meter or meters and the PHA then distributes the Utility service to its tenants.

(h) "Rental Service" means the purchase of a Utility Service by PHA tenant directly from the Utility supplier.

(i) "Surcharges" means the amount charged to tenants for consumption of Utilities in excess of the Allowance for PHA-Furnished Utilities included in Contract Rent. The amount of consumption is determined by use of a Checkmeter.

(j) "Utilities or Utility Service" means water, electricity, gas, heating fuel, trash and garbage collection and sewerage service. Telephone service is not included as a Utility.

**§ 865.473 Establishment of Allowances for PHA-Furnished Utilities.**

(a) *Establishment of Allowances.* PHA's shall establish Schedules of Allowances for PHA-Furnished Utilities which shall be incorporated into their rent schedules and approved by the HUD Field Office. Such Allowances shall be established at the average consumption level of the project for each Checkmetered Utility as adjusted to reflect consumption trends or other projected changes in utility usage that will take place prior to or during the periods for which allowances are being established.

SAMPLE SCHEDULE OF ALLOWANCES FOR QUARTERLY READING OF CHECKMETERS

Electricity purchased by PHA for lighting, refrigeration and small appliances.
Natural gas purchased by PHA for cooking, domestic hot water and space heating.
Water purchased by PHA.

| Utility and Period | 1-BR Unit | 2-BR Unit | 3-BR Unit | 4-BR Unit |
|---|---|---|---|---|
| Electricity: | | *Kilowatthours* | | |
| Jan., Feb., Mar. | 423 | 655 | 681 | 705 |
| April, May, June | 346 | 463 | 533 | 577 |
| July, Aug., Sept | 353 | 472 | 544 | 588 |
| Oct., Nov., Dec | 463 | 619 | 712 | 770 |
| Gas: | | *Therms* | | |
| Jan., Feb., Mar. | 317 | 418 | 516 | 611 |
| April, May, June | 96 | 125 | 156 | 185 |
| July, Aug., Sept | 66 | 87 | 109 | 128 |
| Oct., Nov., Dec | 325 | 426 | 527 | 624 |
| Water | 6,600 gallons per dwelling unit per month. | | | |

(b) *Allowances for Projects with Utility Records.* The allowances for PHA-Furnished Utilities shall be established by analyzing, for each checkmetered Utility, the consumption records for the most current three-year period. If records are not available for a three-year period, the PHA shall use consumption records for the most current two-year period or, if such records are unavailable, for the most current one-year period. Allowances based on records for only one year may be adjusted for abnormal weather conditions that prevailed during the one-year period. Seasonal variation in the use of the utilities is the reason for requiring consecutive twelve-month periods.

(c) *Allowances for Project Without Utility Records.* For a new project or an existing project for which consumption records are not available, Allowances for Project-Furnished Utilities shall be based on Utilities consumption records for the most comparable PHA project in the area as to construction, types and sizes of units, Utility combinations, climatic conditions and type of equipment. Utilities consumption data for comparable projects shall be obtained from the records of PHAs, local utility companies, or the HUD Field Office. Within a period of from one (1) to two (2) years after such initial Allowances have been established, the PHA shall analyze the Utilities consumption records for such project and shall adjust the Allowances to the average consumption levels of the project for the period analyzed.

(d) *Periodic Review of Allowances.* Allowances shall be reviewed and adjusted, if necessary, at least once every year.

**§ 865.474 Surcharges Schedules.**

PHAs shall include schedules or Surcharges for excess consumption of Checkmetered Utilities in their rent schedules. Surcharges shall be computed on a monthly or quarterly basis. Such schedules of Surcharges shall be established for specific blocks of excess consumption rather than on a straight per-utility-unit basis and shall be in dollar amounts necessary to recover the cost of such excess consumption. PHAs shall not charge for excess consumption that does not exceed the appropriate Utilities Allowance by less than fifteen (15) percent. Surcharges shall not exceed one-third of a tenant's gross rent for the period covered by the surcharges.

Example: Assume that an Allowance for PHA-Furnished Electricity for a 2-BR Unit in a project is 400 kwh per quarter. A schedule of Surcharges might be as follows:

| | |
|---|---|
| Less than 60 kwh per quarter above allowance | No Charge |
| Each addition 60 kwh, of fraction thereof, above allowance | $1.15 |

**§ 865.475 Energy Savings Credits Schedules.**

PHAs shall include schedules of Energy Savings Credits in their rents schedules for Utilities consumption below that established by the appropriate Allowances for PHA-Furnished Utilities. Credits shall be computed on a monthly or quarterly basis. Such schedules of Energy Savings Credits shall be established for specified blocks of utility savings rather than on a straight per-utility-unit basis and shall be in the dollar amounts necessary to reward the tenants for the value of the saving. PHAs shall not grant Energy Savings Credits for utility savings of less than fifteen (15) percent of the appropriate Utilities Al-

lowance. Energy Savings Credits shall not be granted in an amount that exceeds one-third of the amount of a tenant's gross rent for the period covered by the Credit.

Example: Assume that the Allowance for Project-Furnished Electricity for a 2-BR Unit in a project is 400 kwh per quarter. Schedule of Energy Savings Credits might be as follows:

| | |
|---|---|
| Less than 60 kwh per quarter below allowance | No Credit |
| Each additional 60 kwh, or fraction thereof, below allowance | $1.15 |

**§ 865.476 Establishment of Allowances for Tenant-Furnished Utilities.**

(a) *Establishment of Allowances.* PHA's shall establish schedules of Allowances for Tenant-Furnished Utilities which shall be incorporated into their rent schedules. Such Allowances shall be established for each Utility purchased by project tenants through Retail Service and shall be in a dollar amount equal to the cost of obtaining the average tenant consumption level for each such Utility as adjusted to reflect consumption trends or other projected charges in utility usage that will take place prior to or during the period for which allowances are being established. The dollar amounts shall be credited to the Gross Rent of those tenants who obtain part or all of their Utilities through Retail Service.

(b) *Allowances for Project With Utility Records.* The Allowances for Tenant-Furnished Utilities shall be established by analyzing, for each utility purchased by tenants, the consumption and cost records for the most current three-year period. If records are not available for a three-year period, then the PHA shall use records for the most current two-year period or if such records are unavailable, the most current one-year period. Allowances based on records for only one year may be adjusted for abnormal weather conditions that prevailed during the one-year period. Seasonal variations in the use of utilities is the reason for requiring consecutive twelve-month periods.

(c) *Allowances for Projects Without Utility Records.* For a new project or an existing project for which consumption records are not available, Allowances for Tenant-Furnished Utilities shall be based on Utilities consumption records for the most comparable PHA project in the area as to construction type and types of units, Utility combinations, climatic conditions and type of equipment. Utilities consumption data for comparable projects shall be obtained from the records of PHAs, local utility companies, or the HUD Field Office. Within a period of from one (1) to two (2) years after such initial Allowances have been established, the PHA shall analyze the Utilities consumption records for such project and shall adjust the Allowances to the average consumption level of the project for the period analyzed. Allowances for Tenant-Furnished trash and garbage collection shall be based on actual charges for the service(s) in the community.

(d) *Periodic Review of Allowances.* Allowances shall be adjusted, if necessary, at least once every year. Such reexamination shall be based on a review of tenant Utility consumption costs taken from tenant buildings, Utility supplier records and/or PHA reading of meters, utilizing an adequate sample of project tenants.

(e) *Adjustment for Cost Increases.* Whenever Utility rates, including fuel adjustment charges, cumulatively increase or decrease by more than 10 percent, the PHA shall immediately adjust the dollar amount of such Allowances to reflect the change in Utility rate. Such adjustment shall be subject to subsequent upward or downward revision based on a review of the Allowance pursuant to paragraph (d) of this section.

**§ 865.477 Compliance Schedule.**

PHAs shall review the utility allowance schedules for all existing projects and establish schedules of Allowances according to the provisions of the final rule within eighteen (18) months after the effective date of the final rule.

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit publication at this time for public comment.

Issued at Washington, D.C., December 6, 1978.

LAWRENCE B. SIMONS,
*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 79-427 Filed 1-4-79; 8:45 am]

federal register

FRIDAY, JANUARY 5, 1979
PART IX


# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

# IMPROVING GOVERNMENT REGULATIONS

## Public Participating in Rulemaking; Policy and Procedures

[4210-01-M]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-79-608]

## PART 10—RULEMAKING: POLICY AND PROCEDURES

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: The Secretary is amending the Department's rulemaking policy and procedures. The changes have been adopted in response to the recent Executive Order on Improving Government Regulations, and, among other things, provide for enhanced public participation in rulemaking.

EFFECTIVE DATE: February 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC. 20410.

SUPPLEMENTARY INFORMATION: On March 23, 1978, the President issued Executive Order 12044 (43 FR 12661) prescribing new standards for agencies to follow in formulating rules and regulations. One requirement of these standards is an effective method for involving interested members of the public throughout the rulemaking process. In response to this Executive policy, the Secretary has developed new procedures described in the "Final Report on Implementation of Executive Order 12044, Improving Government Regulations," being published in the General Notices section concurrently with this amendment. The changes being made in 24 CFR Part 10 (Part 10) describe in some detail the scope of the Advance Notice of Proposed Rulemaking (ANPR), provide that comments received in response to an ANPR will be discussed briefly in the subsequent Notice of Proposed Rulemaking and clarify the definition of "rulemaking".

These changes are prompted by explicit requirements of the Executive Order and reflect provisions contained in the Department's report. Both the Executive Order and the Report have been published for public comment and further opportunity for public participation would afford little additional information and delay needed improvements in the rulemaking process. Therefore, the Secretary has determined that comment and public procedures are unnecessary. Moreover, because these changes impose no new restrictions or requirements, good cause exists for making them effective upon publication.

Accordingly, 24 CFR Part 10 is amended to read as follows:

## PART 10—RULEMAKING: POLICY AND PROCEDURES

### Subpart A—General

Sec.



### Subpart B—Procedures



AUTHORITY: Sec. 7(d) of the Department of Housing and Urban Development Act, 79 Stat. 670 (42 U.S.C. 3535(d)); E.O. 12044, 43 FR 12661, March 24, 1978.

### Subpart A—General

**§ 10.1 Policy.**

It is the policy of the Department of Housing and Urban Development to provide for public participation in rulemaking with respect to all HUD programs and functions, including matters that relate to public property, loans, grants, benefits, or contracts even though such matters would not otherwise be subject to rulemaking by law or Executive policy. The Department therefore publishes notices of proposed rulemaking in the FEDERAL REGISTER and gives interested persons an opportunity to participate in the rulemaking through submission of written data, views, and arguments with or without opportunity for oral presentation. It is the policy of the Department that its notices of proposed rulemaking are to afford the public not less than sixty days for submission of comments. For some rules the Secretary will employ additional methods of inviting public participation. These methods include, but are not limited to, publishing Advance Notices of Proposed Rulemaking (ANPR), conducting public surveys, and convening public forums or panels. An ANPR will be used to solicit public comment early in the rulemaking process for significant rules unless the Secretary grants an exception based upon legitimate and pressing time constraints. Unless required by statute, notice and public procedure will be omitted if the Department determines in a particular case or class of cases that notice and public procedure are impracticable, unnecessary or contrary to the public interest. In a particular case, the reasons for the determination shall be stated in the rulemaking document. Notice and public procedure may also be omitted with respect to statements of policy, interpretative rules, rules governing the Department's organization or its own internal practices or procedures, or if a statute expressly so authorizes. A final substantive rule will be published not less than 30 days before its effective date, unless it grants or recognizes an exemption or relieves a restriction or unless the rule itself states good cause for taking effect upon publication or less than 30 days thereafter. Statements of policy and interpretative rules will usually be made effective on the date of publication. The Department's Final Report on Improving Government Regulations provides information about the development and issuance of HUD rules. This report is published in Part IX of today's issue of the FEDERAL REGISTER immediately following this document.

**§ 10.2 Definitions.**

(a) "Rule" or "Regulation" means all or part of any Departmental statement of general or particular applicability and future effect designed to (1) implement, interpret, or prescribe law or policy, or (2) describe the Department's organization, or its procedure or practice requirements. The term "regulation" is sometimes applied to a rule which has been published in the Code of Federal Regulations.

(b) "Rulemaking" means the Departmental process for considering and formulating the issuance, modification, or repeal of a rule.

(c) "Secretary" means the Secretary or the Under Secretary of Housing and Urban Development, or an official to whom the Secretary has expressly delegated authority to issue rules.

**§ 10.3 Applicability.**

(a) This part prescribes general rulemaking procedures for the issuance, amendment, or repeal of rules in which participation by interested persons is required by 5 U.S.C. or by Department policy.

(b) The authority to issue rules, delegated by the Secretary, may not be redelegated unless expressly permitted.

**§ 10.4 Rules Docket.**

(a) All documents relating to rulemaking procedures including but not limited to advance notices of proposed rulemaking, notices of proposed rulemaking, written comments received in response to notices, withdrawals or terminations of proposed rulemaking,

petitions for rulemaking, requests for oral argument in public participation cases, requests for extension of time, grants or denials of petitions or requests, transcripts or minutes of informal hearings, final rules and general notices are maintained in the Rules Docket Room (Room 5218), Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410. All public rulemaking comments should refer to the docket number which appears in the heading of the rule and should be addressed to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

(b) Documents relating to rulemaking proceedings are public records. After a docket is established, any person may examine docketed material at any time during regular business hours, and may obtain a copy of any docketed material upon payment of the prescribed fee. (See Part 15 of this subtitle).

## Subpart B—Procedures

### § 10.6 Initiation of Rulemaking.

Rulemaking proceedings may be initiated on the Secretary's motion, or on the recommendation of a Federal, State, or local government or government agency, or on the petition of any interested person.

### § 10.7 Advance Notice of Proposed Rulemaking.

An Advance Notice of Proposed Rulemaking issued in accordance with § 10.1 of this part is published in the FEDERAL REGISTER and briefly outlines—

(a) The proposed new program or program changes, and why they are needed;

(b) The major policy issues involved;

(c) A request for comments, both specific and general, as to the need for the proposed rule and the provisions that the rule might include;

(d) If appropriate, a list of questions about the proposal that will elicit detailed comments;

(e) If known, an estimate of the reporting or recordkeeping requirements, if any, that the rule would impose; and

(f) Where comments should be addressed and the time within which they must be submitted.

### § 10.8 Notice of Proposed Rulemaking.

Each notice of proposed rulemaking required by statute or by § 10.1 is published in the FEDERAL REGISTER and includes—

(a) The substance or terms of the proposed rule or a description of the subject matter and issues involved;

(b) A statement of how and to what extent interested persons may participate in the proceeding;

(c) Where participation is limited to written comments, a statement of the time within which such comments must be submitted;

(d) A reference to the legal authority under which the proposal is issued; and

(e) In a proceeding which has provided Advance Notice of Proposed Rulemaking, an analysis of the principal issues and recommendations raised by the comments, and the manner in which they have been addressed in the proposed rulemaking.

### § 10.10 Participation by interested persons.

(a) Unless the notice otherwise provides, any interested person may participate in rulemaking proceedings by submitting written data, views or arguments within the comment time stated in the notice. In addition, the Secretary may permit the filing of comments in response to original comments.

(b) In appropriate cases, the Secretary may provide for oral presentation of views in additional proceedings described in § 10.12.

### § 10.12 Additional rulemaking proceedings.

The Secretary may invite interested persons to present oral arguments, appear at informal hearings, or participate in any other procedure affording opportunity for oral presentation of views. The transcript or minutes of such meetings, as appropriate, will be kept and filed in the Rules Docket.

### § 10.14 Hearings.

(a) The provisions of 5 U.S.C. 556 and 557, which govern formal hearings in adjudicatory proceedings, do not apply to informal rule making proceedings described in this part. When opportunity is afforded for oral presentation, such informal "hearing" is a nonadversary, fact-finding proceeding. Any rule issued in a proceeding under this part in which a hearing is held is not based exclusively on the record of such hearing.

(b) When a hearing is provided, the Secretary will designate a representative to conduct the hearing, and if the presence of a legal officer is desirable, the General Counsel will designate a staff attorney to serve as the officer.

### § 10.16 Adoption of a final rule.

All timely comments are considered in taking final action on a proposed rule. Each preamble to a final rule will contain a short analysis and evaluation of the relevant significant issues set forth in the comments submitted, and a clear concise statement of the basis and purpose of the rule.

### § 10.18 Petitions for reconsideration.

Petitions for reconsideration of a final rule will not be considered. Such petitions, if filed, will be treated as peitions for rulemaking in accordance with § 10.20.

### § 10.20 Petition for rulemaking.

(a) Any interested person may petition the Secretary for the issuance, amendment, or repeal of a rule. Each petition shall—

(1) Be submitted to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410;

(2) Set forth the text of substance of the rule or amendment proposed or specify the rule sought to be repealed;

(3) Explain the interest of the petitioner in the action sought; and

(4) Set forth all data and arguments available to the petitioner in support of the action sought.

(b) No public procedures will be held directly on the petition before its disposition. If the Secretary finds that the petition contains adequate justification, a rulemaking proceeding will be initiated or a final rule will be issued as appropriate. If the Secretary finds that the petition does not contain adequate justification, the petition will be denied by letter or other notice, with a brief statement of the ground for denial. The Secretary may consider new evidence at any time; however, repetitious petitions for rulemaking will not be considered.

Issued at Washington, D.C., January 2, 1979.

PATRICIA ROBERTS HARRIS,
*Secretary, Department of Housing and Urban Development.*

[FR Doc. 79-465 Filed 1-3-79; 8:45 am]

[4210-01-M]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

[Docket No. N-79-875]

### FINAL REPORT ON IMPLEMENTATION OF EXECUTIVE ORDER 12044, IMPROVING GOVERNMENT REGULATIONS

AGENCY: Department of Housing and Urban Development.

ACTION: Final report.

SUMMARY: This Final Report outlines the Department's implementation of Executive Order 12044, "Improving Government Regulations." The report contains:

1. A brief description of the Department's current process for developing regulations and the changes to be made in compliance with the Executive Order;
2. Criteria for defining significant regulations;
3. Criteria for identifying regulations requiring regulatory analysis;
4. Criteria for selecting existing regulations to be revised and an initial list of regulations for revision; and
5. Public participation requirements for the development of regulations.

EFFECTIVE DATE: January 5, 1979.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, S.W., Room 5218, Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: On March 24, 1978, at 43 FR 12661, the FEDERAL REGISTER published Executive Order 12044 (The Order), entitled "Improving Government Regulations." The Order required each Executive Agency to revise its procedures for the development of regulations. In their summary and analysis of public comments, the drafters of the Order summarized its requirements as follows:

"The order contains both specific requirements, such as the publication of a semiannual agenda of regulations, and general policy guidance, such as the need to expand the opportunities for public comment. The order attempts to balance the need for clear instructions and common procedures with the flexibility agencies require to design their own procedures and avoid delays and paperwork."

The Order gave each Executive Agency 60 days to publish for public comment a draft report of its proposed procedures for implementing the Order. The Department of Housing and Urban Development (HUD) published its draft report on May 25, 1978 (43 FR 22598). Comments were invited until July 24, 1978.

A total of 31 comments was received. Each comment was carefully considered. The following is a summary of the comments received, and the changes made to the draft report.

#### DISCUSSION OF MAJOR COMMENTS

#### HUD MAILING LIST

The largest number of comments were in the form of requests to receive HUD rulemaking documents, such as advance notices of proposed rulemaking (ANPRs) or proposed rules. HUD wishes its rulemaking documents to enjoy the widest possible circulation and recognizes that not all potential commenters may have access to issues of the FEDERAL REGISTER. HUD currently maintains a mailing list of interested individuals and groups to whom it sends certain selected rulemaking documents thought to be of interest to the mailing list in general. HUD will include any individual or group on that mailing list that sends a name, address and zip code number to: Director, Consumer Liaison Division, Room 4212, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

#### POLICY ISSUES

One commenter noted that the draft report called for the Secretary/Under Secretary to resolve policy issues while approving a work plan. Since work plan approval will occur before the public has a chance to participate in the rulemaking, the commenter objected to policy issues being decided without the benefit of public participation. This was not the intent, and the final report has been revised to eliminate all misleading passages. What is intended is a continual process of consideration of policy issues, which will be aided by more and more information as the rulemaking process proceeds through publication of the semiannual regulations agenda, an ANPR, a proposed rule, and other methods of obtaining public participation, such as hearings or surveys. The language of the final report is intended to convey that intent.

#### DISTINCTION BETWEEN SIGNIFICANT AND ROUTINE RULES

Several commenters disapproved of the distinction between significant and routine rules. Other commenters approved of the distinction and generally agreed with the Department's proposed criteria for determining significance. Still other commenters requested that the criteria for determining significance be broadened. One commenter suggested that quantitative standards be established for determining significance, such as impact on percentage of population.

It should be noted that the distinction between the two classes of rules was made because the Order applies most of its requirements to "significant" regulations. The Order also sets forth guidelines by which agencies are to establish criteria for determining significance, and this Department's criteria follow those of the Order. Therefore, HUD will continue to distinguish between significant and routine rules in implementing the requirements of the Order.

In the final report, the Department has somewhat refined its criteria for determining rule significance. Informal application of the proposed criteria published on May 25 to a sampling of recently published HUD rules indicated that the proposed criteria failed to separate effectively rules which were truly significant in the context of the Department's operations and programs from rules which were not particularly significant. The refined criteria set forth in this final report will generally classify rules which are major and novel as significant, and will usually classify rules which are repetitive and technical in nature as routine. The revised criteria do not use quantitative standards or thresholds since it is believed that the use of these standards or thresholds would prove unduly restrictive. The revised criteria are intended to avoid excessive paperwork and delay in the issuance of HUD regulations. However, the Department intends where appropriate to apply voluntarily to routine rules many of the mandatory procedures applicable to significant rules, including the requirements pertaining to ANPRs and 60 day comment periods on notices of proposed rulemaking.

#### SPECIAL RULES

A new category of rules called "special" rules, has been added (See Part III D of Report). In general, special rules are those which Section 6 of the Order exempts from its coverage. Most special rules will be processed as routine rules. However, emergency rules and rules responsive to short term statutory or judicial deadlines will be processed as appropriate in the light of the applicable emergency or deadline.

#### ISSUES PAPER

The draft report provided that if, for pressing and legitimate reasons, there was not sufficient time to issue an ANPR for a significant rule, an issues paper was to be prepared by the drafting office and sent to a representative sampling of affected consumers and/or to appropriate consumer organizations or representatives. The intent of

this provision was to permit some advance comment in a case where HUD was committed to publish a significant rule in the near future. Upon reconsideration, the provision has been deleted because it is believed that there will be sufficient time to issue ANPRs for all significant HUD rules. Moreover, true emergency or deadline situations are adequately accommodated by the procedures and requirements pertaining to special rules.

CONSULTATION WITH ORGANIZATIONS REPRESENTING STATE AND LOCAL GOVERNMENT

One commenter pointed out that the procedures in the draft report did not reflect President Carter's March 23 Memorandum for Heads of Executive Departments and Agencies, which required agencies developing regulations to consult with general purpose state and local governments and national organizations representing general purpose state and local governments. We agree with this comment and have added provisions to the final report which accommodate the requirement.

SEMIANNUAL REGULATIONS AGENDA

Two commenters objected to the Department's proposal to publish a regulations agenda only twice each year. In part, the objections were based upon the mistaken beliefs that HUD could consider for promulgation only those significant rules listed in an agenda, and that infrequent issuance of agendas would unduly restrict HUD rulemaking. It should be noted that the Department is by no means limited to considering only those significant rules included in an agenda. Each agenda may be supplemented at any time to reflect subsequent decisions to consider new rules. Thus, the final report does not change the proposed procedures and requirements in regard to the timing of agenda issuance.

A commenter suggested including all rules, routine as well as significant, in the agenda. This suggestion was not adopted since the Department believes that its use of ANPRs and 60 day notices of proposed rulemaking will adequately involve the public and interested groups and organizations in the formulation of routine rules.

REGULATORY ANALYSIS

One commenter requested that the Department require preparation of a regulatory analysis for any significant rule which results in an annual increase in costs and prices totalling $10 million for an individual industry, level of government or geographic region, instead of the $50 million threshold which was proposed. The Order requires preparation of a regulatory analysis for any significant rule causing a "major increase in costs or prices for individual industries, levels of government or geographic regions." The suggestion was not adopted because it would result in preparation of regulatory analyses for virtually all HUD regulations. This would negate the effectiveness of the analyses in directing public attention to the most important proposed rules in terms of economic impact. It would also create excessive paperwork and administrative costs.

COMPENSATION

Several commenters requested that the Department compensate participants in rulemaking for their expenses, citing examples of other federal agencies which have initiated compensation programs. HUD believes that its new procedures will widen public participation in HUD rulemaking and is not prepared to initiate a compensation program at this time. However, in the future, HUD will consider the feasibility of a compensation program.

MISCELLANEOUS COMMENTS

(1) One commenter requested that the Department hold hearings outside Washington, D.C. HUD has held, and will continue to hold, hearings throughout the country when appropriate. Indeed, it recently held such hearings on its proposed regulations on Nondiscrimination Based on Handicap.

(2) A commenter requested that the Department state the number of protesting comments received for each regulation, as a measure of controversy. We agree that the number of comments received concerning a rule is of interest, and will henceforth state that number in the preamble to any final HUD rule which follows the publication of a notice of proposed rulemaking. It is often impossible to break down comments point by point into pros and cons. Therefore, the Department will not classify comments on that basis. However, we will continue our practice of discussing major comments in final rule preambles.

(3) A commenter wondered whether the Department could print changes in bold type which are included within the body of otherwise unchanged provisions. The FEDERAL REGISTER prefers that bold type be reserved for information in the heading of a rule. However, for proposed rules the FEDERAL REGISTER can indicate addition and deletion of material by the use of brackets and arrows. In appropriate cases, the Department will experiment with this technique.

(4) A commenter suggested that the list of rules to be revised, which is published in the semiannual regulations agenda, include the specific portions of the rule to be reviewed if the Department does not propose to revise an entire rule. The Department will include this information if known, but the more likely prospect is that it will not know which portions of a rule are to be revised until after review is completed.

(5) A commenter suggested that following Congressional adoption of program legislation which will require preparation of significant regulations, the Department include in its next semiannual regulations agenda the date on which the program will become operational. This suggestion was not adopted because it is often impossible to predict a firm program start-up date at that time.

(6) A commenter suggested that the plan for evaluating the effectiveness of a rule should be published for comment. HUD considers such publication for comment unnecessary since all significant rule revisions resulting from an evaluation will be subject to the same public participation requirements as new significant rules.

(7) A commenter requested that the Department establish a threshold for selecting rules for revision, based upon the number of comments received about the rule. While HUD will certainly consider public response in determining which rules to review, basing review decisions on thresholds might unduly restrict the Department from considering rules badly in need of review, but not controversial.

(8) A commenter suggested that one procedure for obtaining public comment be used by the entire Department. The suggestion was not adopted because it is believed that such an approach to obtaining public participation in rulemaking would be unduly restrictive.

COMMENTS BEYOND SCOPE

A number of comments were received which did not relate to the subject matter of the draft report. They include:

(1) Adding a provision requiring the Department to maintain records of documents given to members of the public or Congress.

(2) Adding a provision that any member of the public is entitled, upon request, to inspect or obtain a document that has been given to any other member of the public.

(3) Adding a provision requiring publication for comment of proposals to revise existing legislation, or adopt new legislation.

(4) Adding provisions requiring application of the rulemaking procedures to HUD's internal handbooks, notices and circulars.

Accordingly, the following final report implementing Executive Order 12044 is adopted as follows:

IMPLEMENTATION OF EXECUTIVE ORDER 12044 BY DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

I. SUMMARY OF PRESENT PROCEDURES FOR DEVELOPING REGULATIONS

A. *HUD Rulemaking Policy*—The Department of Housing and Urban Development ("HUD") complies with the rulemaking provisions of the "Administrative Procedure Act", 5 U.S.C. 553, in developing rules for all HUD programs. This rulemaking policy is stated in detail at Title 24 of the Code of Federal Regulations, Section 10.1 (24 CFR Sec. 10.1).

B. *Summary of Present Procedures*—For purposes of this report, "Primary Organization Head" ("POH") means an Assistant Secretary or other head of a major organizational unit in HUD headquarters. Each draft of a proposed or a final rule must be prepared by the Primary Organization Head with responsibility for the subject matter of the rule (the "drafting office"). Prior to publication, each draft rule must be reviewed by other interested Primary Organization Heads, interested HUD field office heads, and approved by the Secretary or Under Secretary.

To meet these internal clearance requirements, the drafting office will usually seek to resolve objections one at a time with each reviewer. However, a rule which is important and urgent is submitted to a "Clearance Committee" consisting of representatives of the drafting office and all interested Primary Organization Heads. In the Committee, HUD field office heads are represented by the Deputy Under Secretary for Field Coordination or his/her designee. This Committee seeks to resolve objections simultaneously. Under both procedures, the Secretary/Under Secretary decides any issues which cannot be resolved at a lower level before the rule is published.

II. CHANGES IN PRESENT PROCEDURES TO COMPLY WITH EXECUTIVE ORDER 12044

A. *Major Objectives*—HUD is modifying its present rulemaking procedures to promote the following objectives:

1. Better oversight and control of rulemaking by the Secretary/Under Secretary including tentative resolution of major policy issues presented by proposed significant rules early in the rule development process.

2. Improved analysis of the economic impact of all rules.

3. Increased opportunities for public and interest group participation in significant rule formulation.

4. Preparation of rules in plain English.

5. Improved consideration of the urban and community impacts of all rules.

B. *Semiannual Regulations Agenda—Rule Classification*—Rule development will commence with the preparation and publication twice each year of an agenda of significant regulations pursuant to Section 2(a) of Executive Order 12044. Each agenda will describe all significant regulations under consideration and the status of regulations listed on previous agendas. For each significant regulation, the agenda will state: (i) the need and legal basis for the action being taken; (ii) the name and telephone number of a knowledgeable HUD official; and (iii) when possible, whether a regulatory analysis will be required. The agenda will also contain a paragraph advising general purpose State and local governments, and national organizations representing general purpose State and local governments that they have the right to notify the Department of regulations in which they have a particular interest in order to insure that their views are solicited in accordance with the Federal Advisory Committee Act, in the development of the regulation.

The procedures for developing semiannual regulations agendas and classifying regulations are as follows: Approximately six weeks before the publication date of the next agenda, each Primary Organization Head will submit a list, covering the next six month period, of: (i) all new rules to be developed by his/her office; (ii) all existing rules to be reviewed by his/her office; (iii) all new rules that should be developed by other HUD offices; (iv) all existing rules that should be reviewed by other HUD offices; and (v) the status of each rule previously listed as under development or review by his/her office. For each new rule to be developed (categories (i) and (iii) in the preceding sentence), the proposing office will indicate whether it regards the rule as "significant", "routine", or "special" and explain why. (See Part III of this report)

A proposed agenda of significant rules and a proposed list of routine and special rules, accompanied in each case by a justification, will be prepared, sent to all Primary Organization Heads for review and submitted, with any review comments, to the Secretary/Under Secretary for approval. The agenda of significant rules, as approved by the Secretary/Under Secretary, will be published in the FEDERAL REGISTER. All rules will be subsequently processed according to their classification, as approved by the Secretary/Under Secretary.

C. *Routine Regulations*—Drafts of rules determined by the Secretary/Under Secretary to be "routine" will be processed for publication using the existing procedures outlined in Part I.B of this report. However, the Clearance Committee will not be convened to consider these rules. If necessary, processing of routine rules will be expedited by strictly limiting the length of time permitted for internal HUD review.

D. *Special Regulations*—Drafts of rules determined by the Secretary/Under Secretary to be "special" will be processed for publication in accordance with the same procedures as routine regulations, except that special regulations issued in response to an emergency, or which are governed by a short term statutory or judicial deadline will be processed as appropriate considering the deadline. In the case of regulations that are issued in response to an emergency or which are governed by a short term statutory or judicial deadline, HUD will publish in the FEDERAL REGISTER a statement why it is impracticable or contrary to the public interest for HUD to follow the procedures of Executive Order 12044, along with the name of the public official responsible for this determination.

E. *Significant Regulations*—1. *Work Plan*—Before drafting any rule determined by the Secretary/Under Secretary to be "significant", the drafting office will prepare a "work plan" which will: (i) state why the proposed rule is needed; (ii) discuss the alternatives to be considered; (iii) cite the legal authority for the proposed rule; (iv) recommend for or against the preparation of a regulatory analysis which includes an assessment of economic and urban and community impacts, with supporting justification (see Part IV of this report); (v) if preparation of a regulatory analysis is not recommended, recommend for or against the preparation of a separate urban and community impact analysis, with supporting justification (See Part VII of this report); (vi) outline a plan for obtaining public participation in the development of the proposed rule (see Part VI of this report); (vii) identify each step in the rule's development with tentative deadlines for completion; (viii) name a project manager to oversee the rulemaking process; (ix) if appropriate, request that the Clearance Committee consider the rule, supporting the request with a showing of urgency; (x) describe the major policy issues and the relevant options associated with the rule proposal; and (xi) to the extent known, indicate whether and explain why the rule proposal may be of particular concern to affected groups.

Each work plan will be reviewed simultaneously by all other interested Primary Organization Heads. Normally, this review will be completed within five (5) working days. The work plan, and the comments of reviewing offices, will then be sent to the Secre-

tary/Under Secretary with a summary of all major issues.

The Secretary/Under Secretary will review the work plan, modify it if necessary, and make initial determinations on each of its points. Preparation of a significant rule shall not commence until the Secretary/Under Secretary approves the related work plan. To facilitate approval, the Secretary/Under Secretary may meet with representatives of the drafting office, Primary Organization Heads, and/or HUD field office heads. The Secretary/Under Secretary may also direct the Office of Policy Development and Research or the drafting office to prepare policy options and/or urban impact analyses.

2. *Increased Public Participation in Rulemaking*—Present rulemaking procedures generally provide for public participation only after a Notice of Proposed Rulemaking is published in the FEDERAL REGISTER. Consequently, interested parties do not participate in the early development of the rule as intended by Executive Order 12044.

Under the modified procedures, the drafting office will be required to develop a public participation plan for each proposed significant rule. The plan will specifically detail how public participation will be obtained in the development of the rule. An advance notice of proposed rulemaking (ANPR) will be published for each significant regulation unless the Secretary/Under Secretary grants an exception based upon legitimate and pressing time constraints. The plan may also include solicitation of views through such mechanisms as consumer surveys, consumer panels, conferences, or public hearings. Each plan will be commented on by other interested Primary Organization Heads and approved by the Secretary/Under Secretary.

A complete discussion of plan requirements appears in Part VI of this report.

A computerized data bank will be used to identify groups interested in particular rules. HUD's Office of Neighborhoods, Voluntary Associations, and Consumer Protection ("NVACP"), will also hold consumer forums on a regular basis in HUD Area and Regional Offices as well as in Washington, D.C. These forums will provide opportunities for discussion of programs, policies and proposals between HUD staff, individuals, consumer groups and other interested groups. Also, HUD will increase the public comment period for virtually all its published rules, regardless of classification, from the usual 30 days to 60 days. In the few instances where HUD determines that a 60 day comment period is not possible, the rule will be accompanied by a brief statement of the reasons for a shorter comment period.

3. *Improved Economic Analysis*—HUD's policies, procedures and requirements for Economic Impact Statements under former Executive Order 11821 substantially satisfy the regulatory analysis requirements of Executive Order 12044. Consequently, only minor modifications are being made, but with much greater emphasis on monitoring compliance with HUD standards. The modified procedures will require that the Secretary/Under Secretary decide before preparation of a draft rule whether a regulatory analysis is to be prepared for rules which ordinarily would not require such analysis because their impact does not exceed the dollar thresholds established in Paragraph IV of this report. If it is determined that a rule requires a regulatory analysis, preparation of the analysis and of the rule shall proceed simultaneously. Also, the rule and the analysis will be reviewed and approved together.

Under Executive Order 12044, each regulatory analysis will contain a succinct statement of the problem addressed, a description of major alternative ways of dealing with the problem that were considered, an analysis of the economic impact of each alternative, and a detailed explanation of the reasons for choosing one alternative over the other. In addition, as required by OMB Circular A-116 implementing Executive Order 12074, the urban and community impact analysis will be incorporated into the regulatory analysis of regulations required under Executive Order 12044.

4. *Improved Urban and Community Impact Analysis*—[Reserved.]

5. *Writing Rules in Plain English*—HUD's present procedures include no specific provision for reviewing rules to ensure that they are simple, clear and understandable. Yet, understandable rules are essential to protecting the rights of the regulated, and are a cornerstone for meaningful public participation in rule formulation. Thus, it is essential that the drafting office write regulations in clear and concise language and in an understandable form.

The modified procedures will provide that any major plain English concern about the language of a proposed rule shall be considered in the same way as are major policy objections. Any major plain English concern which is unresolved during clearance will be reported to the Secretary/Under Secretary for consideration in the decision whether to approve the proposed rule for publication.

NVACP has provided guidelines for plain English for the Department. Additionally, HUD will evaluate its existing rules from a number of standpoints including clarity and understandability. This evaluation project is discussed in Part V of this report.

5. *Approval by the Secretary/Under Secretary*—Each significant final rule proposed for the Secretary's/Under Secretary's approval will be supported by:

(1) a summary of all comments received as a consequence of the public and interest group participation process and how they are addressed in the rulemaking;

(2) any related regulatory analysis;

(3) any related urban and impact analysis;

(4) estimates of the rule's impact on staff resources;

(5) summary flow charts of any new procedures required by the rule;

(6) analyses of all recordkeeping and reporting requirements imposed by the rule;

(7) summaries of the need for the rule, its direct and indirect consequences, and alternative approaches considered; and

(8) a final plan for evaluating the effect of the rule after its issuance.

The Secretary/Under Secretary will approve the final rule for publication only if he/she first finds:

(1) that the rule is needed;

(2) that the direct and indirect effects of the rule have been adequately considered;

(3) that alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(4) that public comments have been considered and an adequate response has been prepared;

(5) that the rule is written in plain English and is understandable to those who must comply with it;

(6) that an estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the rule;

(7) that the name, address and a telephone number of a knowledgeable HUD official is included in the publication; and

(8) that a plan for evaluating the rule after its issuance has been developed.

The Secretary/Under Secretary may direct the Office of Policy Development and Research or the drafting office to assist him/her in making these findings by preparing updated policy options and urban impact analyses. The Secretary/Under Secretary may also consult with representatives of the drafting office, Primary Organization Heads and HUD Field Office Heads before deciding whether to approve publication of a significant rule.

6. *Highlights of Modified Procedures for Significant Regulations*—Each significant rule will be formulated in accordance with the approved work plan,

including the public participation portion of the work plan. After the rule is formulated and drafted, it will be reviewed and approved for publication under procedures closely paralleling the existing HUD procedures described in Part I.B of this report. Any draft regulatory analysis prepared for the rule will be made available for public inspection when the proposed rule is published for comment, and any final regulatory analysis prepared for the rule will be made available for public inspection when the final rule is published. Before any final significant rule is published, the Secretary/Under Secretary will make all findings required by Section 2(d) of Executive Order 12044.

F. *Changes in HUD Rulemaking Regulations and Handbook*—Following publication of this final report, HUD will adopt all necessary changes to its rulemaking policy, 24 CFR Part 10, and to its Regulations Processing Handbook. The modified policy and Handbook will fully comply with Executive Order 12044. The modified Handbook will be available for public examination and review.

### III. CRITERIA FOR CLASSIFYING RULES

A. *Regulations Categories*—Rules will be classified as "significant", "routine", or "special".

B. *Significant Rule Criteria*—Significant rules will be those which:

1. Implement a new program or activity;

2. Alter an existing program or activity, for example, by substantially increasing or reducing the number of type of program participants, recipients or beneficiaries;

3. Impose substantial new requirements or standards for program compliance, participation, or receipt of program benefits (including new reporting or recordkeeping requirements);

4. Are likely to be of particular concern in the Congress and among national organizations; local interest groups; groups of program participants, recipients, or beneficiaries; industries; businesses; State, county, or municipal governments; or other Federal Departments or Agencies;

5. Substantially affect the programs or activities of another Federal Department of Agency; or

6. Appreciably alter the competitive structure in any market by substantially reducing competition, limiting market entry, restraining market information, or increasing market concentration.

C. *Routine Rule*—A rule which does not meet any of the criteria set forth in Parts III. B and D of this report will be considered as "routine". Generally, a rule will be treated as routine if it is (1) recurring or repetitive in nature, and (2) technical in the sense of dealing with such matters as mortgage or debenture interest rates, Section 8 fair market rents or adjustment factors or housing prototype costs, architectural standards or building specifications (including structural, mechanical, materials or engineering specifications).

D. *Special Rule*—A rule will be classified as "special" if it (1) is issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. § 556, 557); (2) relates to agency management and personnel; (3) relates to procurement; or (4) is issued in response to an emergency or is governed by a short term statutory or judicial deadline.

### IV. CRITERIA FOR DETERMINING RULES REQUIRING REGULATORY ANALYSIS

*Regulatory Analysis*—HUD will require preparation of draft and final regulatory analyses for any rule which:

1. Is likely to result in an increase or decrease in Federal Government spending of $100 million or more in any calendar year.

2. Is likely to result in an annual increase in costs or prices totalling $50 million for any individual industry, level of government or geographic region.

3. Is likely to result in an annual increase in costs or prices totalling $100 million or more on a nationwide basis.

4. Is determined by the Secretary/Under Secretary to require such an analysis for any reason.

### V. CRITERIA FOR SELECTING EXISTING RULES TO BE REVISED AND INITIAL LIST OF RULES FOR REVISION

A. *Criteria*—Existing HUD rules will be selected for review by the Secretary/Under Secretary on the basis of the following criteria:

1. The burden which the rule imposes on the public.

2. The extent to which the rule repeats or overlaps other regulatory provisions.

3. Whether changes in authorizing legislation require revision of the rule.

4. Whether the language of the rule should be simplified or clarified.

5. Whether public complaints or petitions for rulemaking have been filed, and the nature of those complaints or petitions.

6. The age of the rule and the length of time since it was last reviewed and revised.

B. *Initial List of Rules to be Reviewed*—

1. Parts 880, 881, 882, 883, Low and Moderate Income Housing program provisions under Section 8 of the Housing and Community Development Act of 1974.

2. Part 16, Privacy Act.

C. *Project to Evaluate all HUD Rules*—

1. *Simplification and Recodification*—HUD is considering proposing revision and simplification of the entire body of authorizing legislation for HUD programs. If this is done, HUD will then revise Title 24 of the Code of Federal Regulations to delete unnecessary materials, and clarify existing rules.

2. *Methodology*—Initially, the review will be conducted as a "pilot" project by a team in the Office of General Counsel ("OGC"). Using the procedures discussed earlier in this report, the team will review, evaluate and if appropriate, revise an initial group of rules. The OGC team will work closely with each program office in an effort to develop program office teams trained to simplify regulations. These teams will, in turn, train and assist other HUD personnel in a Department-wide rule improvement effort. After all teams have been fully trained, the pilot program will be phased out and gradually replaced by simplification programs conducted by the various HUD program offices.

### VI. PUBLIC PARTICIPATION IN THE DEVELOPMENT OF REGULATIONS

The drafting office must in its work plan outline a plan for obtaining public participation in the development of each significant regulation. The first step in developing the plan is to identify who should be invited to comment on the regulation. Participants should include:

A. Those persons and groups to whom the benefits or obligations of the regulation are directed. If the persons are numerous, they may be identified in the aggregate.

B. Those persons or groups that assist HUD in providing services, such as counseling agencies, public housing agencies, organizations representing tenants, developers of HUD insured or assisted housing, mortgage bankers and investment bankers, banks, savings and loan institutions, credit unions and other investment and lending institutions.

C. Interest groups, such as civil rights or consumer organizations or trade associations.

D. General purpose State and local governments and national organizations representing general purpose State and local governments which notified the Department of their interest in the regulation following publication of the Semi-annual Regulations Agenda.

The drafting office will list the participants in the public participation portion of its work plan. If a participating group is large, the drafting office will identify the method by which it will obtain a representative

sample of the group. In their review of the work plan, Primary Organization Heads may recommend additional participants.

The principal means of encouraging public participation at the early, predrafting stage of rule development is to publish an Advance Notice of Proposed Rulemaking (ANPR) in the FEDERAL REGISTER. The ANPR will contain:

A. A brief outline of the proposed new program or proposed changes, and why they are needed;

B. A summary of the major policy issues involved;

C. A request for comments, both specific and general, as to the need for the proposed rule and the provisions that the rule might include;

D. If appropriate, a list of questions about the proposal that will elicit detailed comments;

E. If known, an estimate of the reporting and recordkeeping requirements likely to be necessitated by the proposal; and

F. Advice as to where comments shall be addressed and the time within which they must be submitted.

The drafting office shall attach the ANPR to the work plan, so that the two documents may be reviewed at the same time. After the Secretary/Under Secretary approves the ANPR, it will be forwarded to the FEDERAL REGISTER for publication. In addition, the drafting office will mail copies of the ANPR to the participants identified in the work plan. If a notice of proposed rulemaking is subsequently published, the drafting office will mail copies of that notice to the same participants who received the ANPR.

An ANPR will be published for each significant regulation, unless the Secretary/Under Secretary grants an exception based upon legitimate and pressing time constraints.

In addition to publishing an ANPR and a proposed regulation, the drafting office may provide for futher public participation by one or more of the following methods:

A. Random or media based surveys;

B. Panels, conferences, or forums; and

C. Public hearings.

VII. PROPOSED CRITERIA FOR DETERMINING RULES REQUIRING URBAN AND COMMUNITY IMPACT ANALYSIS (WHICH DO NOT OTHERWISE MEET THE CRITERIA FOR REGULATORY ANALYSIS) [RESERVED]

[Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Executive Order 12044]

Issued in Washington, D.C., on January 2, 1979.

PATRICIA ROBERTS HARRIS,
*Secretary, Department of Housing and Urban Development.*

[FR Doc. 79-466 Filed 1-4-79; 8:45 am]

FRIDAY, JANUARY 5, 1979
PART X


federal register

# DEPARTMENT OF LABOR

## Employment Standards Administration

■

# GENERAL WAGE DETERMINATION DECISIONS

### Minimum Wages for Federal and Federally Assisted Construction

[4510-27]

## DEPARTMENT OF LABOR

### Employment Standards Administration

### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

### General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

#### MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the 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 DECISONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

| | |
|---|---|
| Alabama: | |
| AL76-5990 | Oct. 8, 1976. |
| AL77-1063; AL77-1064; AL77-1066. | May 13, 1977. |
| AL77-1071 | June 3, 1977. |
| AL78-1045 | May 5, 1978. |
| Arizona: | |
| AZ78-5114 | Aug. 11, 1978. |
| AZ78-5116 | July 28, 1978. |
| Arkansas: | |
| AL76-5090 | Oct. 8, 1976. |
| AR77-4072 | Apr. 1, 1977 |
| Florida: | |
| AL76-5090 | Oct. 8, 1976. |
| Georgia: | |
| AQ-4108 | Apr. 26, 1974. |
| GA-76-1015 | Jan. 23, 1976. |
| GA76-1035 | Mar. 5, 1976. |
| GA77-1111 | Aug. 26, 1977. |
| GA78-1088; GA78-1089 | Oct. 13, 1978. |
| Hawaii: | |
| HI78-5130 | Nov. 24, 1978. |
| Illinois: | |
| IL78-2093; IL78-2094; IL78-2106; IL78-2109; IL78-2111; IL78-2122; | |
| IL78-2125 | Oct. 20, 1978. |
| IL78-2113 | Oct. 27, 1978. |
| IL78-2117 | Nov. 13, 1978. |
| IL78-2139 | Nov. 3, 1978. |
| IL78-2144 | Dec. 1, 1978. |
| Indiana: | |
| IN77-2012; IN77-2013; IN77-2015 | Feb. 11, 1977. |
| IN77-2022 | Feb. 18, 1977. |
| Kentucky: | |
| AL76-5090 | Oct. 8, 1976. |
| KY76-1093 | Sept. 3, 1976. |
| KY76-1097 | Sept. 10, 1976. |
| KY76-1118 | Oct. 15, 1976. |
| KY76-1136 | Dec. 3, 1976. |
| Louisiana: | |
| AL76-5090 | Oct. 8, 1976. |
| LA77-4031 | Feb. 18, 1977. |
| Maryland: | |
| MD77-3036 | Mar. 4, 1977. |
| MD77-3086 | Aug. 5, 1977. |
| MD78-3002 | Mar. 3, 1978. |
| Michigan: | |
| MI77-2041 | Mar. 25, 1977. |
| Mississippi: | |
| AL76-5090 | Oct. 8, 1976. |
| MS76-1076 | July 16, 1976. |
| MS77-1055; MS77-1056; MS77-1057 | May 6, 1977. |
| MS77-1069 | May 20, 1977. |
| MS77-1078 | June 17, 1977. |
| MS78-1018; MS78-1019; MS78-1020; MS78-1021 | Mar. 3, 1978. |
| Missouri: | |
| AL76-5090 | Oct. 8, 1976. |
| Nevada: | |
| NV78-5018 | Mar. 17, 1978. |
| NV78-5124 | Sept. 15, 1978. |
| New Jersey: | |
| NJ78-3009 | Apr. 21, 1978. |
| Pennslyvania: | |
| PA78-3005 | Feb. 24, 1978. |
| PA78-3012 | Apr. 28, 1978. |
| Tennessee: | |
| AL76-5090 | Oct. 8, 1976. |
| TN78-1058 | July 7, 1978. |
| TN78-1091 | Oct. 20, 1978. |

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|---|---|
| Texas: | |
| AL76-5090 | Oct. 8, 1976. |
| TX78-4039 | Apr. 14, 1978. |
| TX78-4081 | Aug. 18, 1978. |
| TX78-4086 | Aug. 25, 1978. |
| TX78-4089; TX78-4090; TX78-4091; TX78-4092 | Sept. 15, 1978. |
| TX78-4094; TX78-4095 | Sept. 22, 1978. |
| TX78-4114 | Oct. 20, 1978. |
| TX78-4115 | Dec. 1, 1978. |
| West Virginia | |
| WV77-3083 | Sept. 30, 1977. |

### Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

| | |
|---|---|
| Georgia: | |
| GA75-1113 (GA79-1012) | Dec. 12, 1975. |
| GA78-1077 (GA79-1014) | Sept. 8, 1978. |
| GA78-1092 (GA79-1013) | Oct. 27, 1978. |
| Louisiana: | |
| LA78-4099 (LA79-4001) | Oct. 6, 1978. |
| LA78-4113 (LA79-4002) | Oct. 13, 1978. |
| New Mexico: | |
| NM78-4076 (NM79-4021) | Aug. 11, 1978. |
| Oklahoma: | |
| OK77-4038 (OK79-4019) | Feb. 18, 1977. |
| OK77-4060 (OK79-4017) | Mar. 11, 1977. |
| OK78-4066 (OK79-4020) | June 16, 1978. |
| Tennesee: | |
| TN75-1098 (TN79-1006) | Sept. 26, 1975. |
| TN76-1057 (TN79-1007) | May 14, 1976. |
| TN76-1140 (TN79-1005) | Dec. 28, 1976. |
| TN77-1087 (TN79-1011); TN77-1114 (TN79-1010); TN77-1121 (TN79-1008) | Sept. 30, 1977. |
| TN77-1131 (TN79-1009) | Oct. 14, 1977. |
| Texas: | |
| TX76-4039 (TX79-4014) | Feb. 13, 1976. |
| TX77-4026 (TX79-4012); TX77-4029 (TX79-4015) | Feb. 18, 1977. |
| TX77-4172 (TX79-4013) | Aug. 5, 1977. |
| TX78-4017 (TX79-4008) | Mar. 10, 1978. |
| TX78-4034 (TX79-4009) | Apr. 14, 1978. |
| TX78-4079 (TX79-4005) | Aug. 11, 1978. |
| TX78-4082 (TX79-4003); TX78-4083 (TX79-4004); TX78-4084 (TX79-4011); TX78-4087 (TX79-4007); TX78-4088 (TX79-4010) | Aug. 25, 1978. |
| TX78-4096 (TX79-4006) | Sept. 22, 1978. |

### Cancellation of General Wage Determination

General Wage Determination Number AR-4037, Charlton, Pierce, and Ware Counties, Georgia, is hereby cancelled. Agencies with residential construction projects contemplated in the counties should utilized the project determination procedure by submitting form SF-308 (see 29 CFR Part 1, Section 1.5). Contracts for which bids have been opened shall not be affected by this notice. Consistent with 29 CFR Part 1, Section 1.7(b)(2), inlcusion of the above decision in contracts for which the bid opening is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 29th day of December 1978.

Dorothy P. Come,
*Assistant Administrator,*
*Wage and Hour Division.*

MODIFICATIONS P. 1

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #AL76-5090-Mod. #3 (41 FR 44609- October 8,1976) Alabama, Arkansas, Florida, ( west of the Aucilla River), Kentucky, Louisiana, Mississippi, Missouri, Tennessee, and Texas. | | | | | |
| Change: | | | | | |
| Cook Helper- Mess Boy | $2.90 | | | | |
| Janitor- Cabin Boy | 2.90 | | | | |

MODIFICATIONS P. 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Decision # AL77-1063 - Mod. # 2 (42 FR-24553 - May 13, 1977) Autauga, Barbour, Bibb, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Montgomery, Perry, Pike, Russell, Tallapoosa, Counties, Alabama | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Laborers | 2.90 | | | | |
| Truck Drivers | 2.90 | | | | |
| Decision # AL77-1064 - Mod. # 2 (42 FR-24553 - May 13, 1977) Autauga, Barbour, Bibb, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Hale, Henry, Houston, Lee, Lowndes, Macon, Montgomery, Perry, Pike, Russell, and Tallapoosa Counties, Alabama | | | | | |
| Change: | | | | | |
| Truck Drivers | 2.90 | | | | |
| Decision # AL77-1066 - Mod. # 2 (42 FR-24554 - May 13, 1977) Blount, Cherokee, Clay, Cleburne, Colbert, Cullman, DeKalb, Fayette, Franklin, Jackson, Lamar, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Randolph, Winston Counties, Alabama | | | | | |
| Change: | | | | | |
| Laborers | 2.90 | | | | |

MODIFICATIONS P. 3

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Decision # AL77-1071 - Mod. # 1 (42 FR-28728 June 3, 1978) Calhoun, Etowah, Greene, Jefferson, Pickens, St. Clair, Shelby, Sumter, Talladega, Tuscaloosa, Walker Counties, Alabama. | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Laborers | 2.90 | | | | |
| Decision # AL78-1045 - Mod. # 1 (43 FR-19541 - May 5, 1978) Barbour, Coffee, Covington, Dale, Geneva, Henry, Houston, and Russell Counties, Alabama | | | | | |
| Change: | | | | | |
| Laborers | 2.90 | | | | |
| DECISION #AZ78-5114 - Mod. #8 (43 FR 35828 - August 11, 1978) Statewide, Arizona | | | | | |
| Change: | | | | | |
| Boilermakers | $14.36 | $1.075 | $1.00 | $1.00 | .03 |
| Roofers: | | | | | |
| Tucson Area: | | | | | |
| Asbestos; Shinglers, Tile and Waterproofing: | | | | | |
| Zone A: 0 to 44 miles from Tucson | 9.77 | .845 | .20 | | .03 |
| Zone B: Over 44 miles from Tucson | 11.52 | .845 | .20 | | .03 |
| DECISION #AZ78-5116 - Mod. #6 (43 FR 33014 - July 28, 1978) Pima County, Arizona | | | | | |
| Change: | | | | | |
| Boilermakers | $14.36 | $1.075 | $1.00 | $1.00 | .03 |
| Roofers: | | | | | |
| Zone A: 0 to 44 miles from Tucson | 9.77 | .845 | .20 | | .03 |
| Zone B: Over 44 miles from Tucson | 11.52 | .845 | .20 | | .03 |

MODIFICATIONS P. 4

| DECISION NO. AR77-4072 - Mod. #2 (42 FR 17754 - April 1, 1977) Statewide, Arkansas | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE: | | | | | |
| LABORERS; | | | | | |
| Laborer | $2.90 | | | | |
| DECISION #AQ-4108 - Mod. #2 (39 FR 14841 - April 26, 1974) Barrow, Clarke, Elbert, Greene, Hart, Jackson, Madison, Morgan, Newton, Oconee, Oglethorpe, & Walton Counties, Georgia | | | | | |
| CHANGE: | | | | | |
| Laborers | $ 2.90 | | | | |
| Truck drivers | 2.90 | | | | |
| Power Equipment Operators: | | | | | |
| Asphalt roller | 2.90 | | | | |
| Asphalt spreader | 2.90 | | | | |
| DECISION #GA76-1015 - Mod. #2 (41 FR 3590 - January 23, 1976) Burke, Columbia, Glascock, Hancock, Jefferson, Jenkins, Lincoln, McDuffie, Richmond, Taliaferro, Warren, Washington, & Wilkes Counties, Georgia | | | | | |
| CHANGE: | | | | | |
| Laborers | 2.90 | | | | |
| DECISION #GA76-1035 - Mod. #3 (41 FR 9758 - March 5, 1976) Chattahoochee, Harris, Macon, Marion, Meriwether, Muscogee, Schley, Stewart, Sumter, Talbot, Taylor, Troup, & Webster Counties, Georgia | | | | | |
| CHANGE: | | | | | |
| Glaziers | 2.90 | | | | |
| Laborers: | | | | | |
| Laborers | 2.90 | | | | |
| Mortar mixers | 2.90 | | | | |
| Truck drivers | 2.90 | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Fork lift | 2.90 | | | | |
| Motor grader | 2.90 | | | | |

DECISION #GA77-1111 - Mod. #2
(42 FR 43323 - August 26, 1977)
Appling, Atkinson, Bacon, Baker, Baldwin, Ben Hill, Berrien, Bibb, Bleckley, Brantley, Brooks, Bryan, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Carroll, Charlton, Chattahoochee, Clarke, Clay, Clayton, Clinch, Coffee, Colquitt, Columbia, Cook, Coweta, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Effingham, Emanuel, Evans, Fayette, Glascock, Glynn, Grady, Greene, Hancock, Harris, Heard, Henry, Houston, Irwin, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Jones, Lamar, Lanier, Laurens, Lee, Liberty, Lincoln, Long, Lowndes, Macon, Marion, McDuffie, McIntosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Muscogee, Newton, Oconee, Oglethorpe, Peach, Pierce, Pike, Pulaski, Putnam, Quitman, Randolph, Richmond, Rockdale, Schley, Screven, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Treutlen, Troop, Turner, Twiggs, Upson, Walton, Ware, Warren, Washington, Wayne, Webster, Wheeler, Wilcox, Wilkes, Wilkinson, Worth Counties, Georgia

CHANGE:

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Laborers | $ 2.90 | | | | |



DECISION #GA78-1088 - Mod. #2
(43 FR 47426 - October 13, 1978)
Chatham County, Georgia

CHANGE:

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Carpenters & Soft Floor Layers | $ 9.40 | .50 | | | |
| Cement Masons | 8.00 | | | | |
| Laborers: | | | | | |
| General laborers, traffic flagmen, track spotters; | 5.32 | .15 | .13 | | .10 |
| Operators of jackhammer, tamp, paving breaker, chipping hammer, spade, chainsaw, vibrator, motorized buggy, mason tender, terrazzo helper, railroad or track laborers, walk behind compactor or roller plasterer, and carpenter tenders; | 5.47 | .15 | .13 | | .10 |
| Mortar mixers (hand or machine), pipelayers, (harner, potman, etc.), flagman, (cranes, derricks, etc.); | 5.57 | .15 | .13 | | .10 |
| Burner (torch) on demolition work, track or wagon drills used in blasting; | 5.82 | .15 | .13 | | .10 |
| Powderman or blaster | 6.32 | .15 | .13 | | .10 |
| Millwrights | 10.00 | .50 | | | |
| Painters: | | | | | |
| Brush & roller; | 8.35 | | | | |
| Paperhangers, drywall tapers, & paint burners; | 8.60 | | | | |
| Window jacks, steel brush, & steel roller; | 8.85 | | | | |
| Sandblasting, paint spraying, paint mitts & gloves, & power tools (no roller larger than 9") | 9.10 | | | | |
| Piledrivermen | 9.65 | .50 | | | |
| Plumbers & Pipefitters: | | | | | |
| Contracts $15,000.00 or less | 10.30 | .45 | .60 | | .05 |
| Contracts over $15,000.00 | 10.95 | .45 | .60 | | .05 |

DECISION #GA78-1089 - Mod. #2
(43 FR 47427 - October 13, 1978)
Richmond County, Georgia

CHANGE:

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Plumbers & Pipefitters | 10.98 | .60 | .55 | | .05 |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #HI78-5130 - Mod. #1 (43 FR 55143 - November 24, 1978) Statewide, Hawaii | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Group 1 | $8.11 | .84 | $1.21 | .48 | .08 |
| Group 1-a | 8.16 | .84 | 1.21 | .48 | .08 |
| Group 1-b | 8.51 | .84 | 1.21 | .48 | .08 |
| Group 1-c | 8.71 | .84 | 1.21 | .48 | .08 |
| Group 1-d | 8.61 | .84 | 1.21 | .48 | .08 |
| Group 1-e | 8.81 | .84 | 1.21 | .48 | .08 |
| Group 1-f | 8.86 | .84 | 1.21 | .48 | .08 |
| Group 1-g | 9.06 | .84 | 1.21 | .48 | .08 |
| Group 1-h | 6.00 | .64 | .10 | .38 | |
| Group 2 | 8.36 | .84 | 1.21 | .48 | .08 |
| Group 3 | 8.56 | .84 | 1.21 | .48 | .08 |
| Marble Setters | 10.78 | 1.30 | 1.70 | | .15 |
| Terrazzo Workers and Tile Setters: | | | | | |
| Ceramic Tile Finisher | 8.18 | 1.30 | 1.70 | | .15 |
| Terrazzo Base Finisher | 9.35 | 1.30 | 1.70 | | .15 |
| Terrazzo Floor Grinder and Finisher | 8.18 | 1.30 | 1.70 | | .15 |
| Terrazzo Workers and Tile Setters | 10.78 | 1.30 | 1.70 | | .15 |
| Decision #IL78-2093 - Mod. #1 | | | | | |
| 43 FR 49157 - October 20,1978 Champaign & Vermilion Counties, Illinois | | | | | |
| Change: | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| CLASS I | $12.40 | .55 | .75 | | .08 |
| CLASS II | 12.30 | .55 | .75 | | .08 |
| CLASS III | 12.10 | .55 | .75 | | .08 |
| CLASS IV | 8.00 | .55 | .75 | | .08 |
| DECISION #IL78-2094 - MOD #2 (43 FR 49159 - October 20, 1978) DuPage, Grundy, Kane, Kendall, Lake, McHenry and Will Counties, Illinois | | | | | |
| CHANGE: MOD #2 Dated 12-8-78 to read MOD #1. | | | | | |
| ELECTRICIANS: | | | | | |
| Kendall Co. & Southern half of Kane County | $13.80 | 52 | 112 | | 1/ of 1 |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #IL78-2106 - MOD #2 (43 FR 49167 - October 20, 1978) Fulton, Hancock, McDonough & Schuyler Counties, Illinois | | | | | |
| CHANGE: | | | | | |
| ELECTRICIANS: | | | | | |
| Remainder of Fulton County | $12.32 | .50 | 3%+.75 | | 3/4 of 1% |
| DECISION #IL78-2109 - MOD #1 (43 FR 49175 - October 20, 1978) Bureau, Lasalle, Livingston, Marshall, Putnam and Woodford Counties, Illinois | | | | | |
| CHANGE: | | | | | |
| ELECTRICIANS: | | | | | |
| Area west of Bell Plain and Roberts Townships in Marshall County; area west to but not including Linn, Kansas, Palestone, Roanoke, Cazenovia, and Metamona Twps. in Woodford County | $12.32 | .50 | 3%+.75 | | 3/4 of 1% |
| Northern half and Central part of Lasalle Co. Walnut, Ohio, Lamille, Clarion, Bureau, Dover, Berlin and Westville Twps. in Bureau County | 13.93 | .88 | 3%+.70 | | .2 of 1% |
| DECISION #IL78-2111 - MOD #1 (43 FR 49179 - October 20, 1978) Logan, Mason and Menard Counties, Illinois | | | | | |
| CHANGE: | | | | | |
| ELECTRICIANS: | | | | | |
| Remainder of Mason County | $12.32 | .50 | 3%+.75 | | 3/4 of 1 |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #IL78-2113 - MOD #2 (43 FR 50303 - October 27, 1978) Christian, DeWitt, Macon, Macoupin, Moultrie, Piatt, and Shelby Counties, Illinois | | | | | |
| CHANGE: | | | | | |
| CARPENTERS: | | | | | |
| Christian County | | | | | |
| Carpenters & Soft Floor Layers | $11.45 | .55 | .55 | | .06 |
| Millwrights & Piledrivermen | 12.95 | .55 | .55 | | .06 |
| DECISION #IL78-2117 - MOD #2 (43 FR 52638 - November 13, 1978) Madison and St. Clair Counties, Illinois | | | | | |
| CHANGE: | | | | | |
| LABORERS: | | | | | |
| Collinsville | | | | | |
| Common | $10.50 | .60 | .75 | | .035 |
| Mason & Plasterer Tenders | 11.00 | .60 | .75 | | .035 |
| Dynamite Men | 11.80 | .60 | .75 | | .035 |
| Bellville & Vicinity | | | | | |
| Laborers | 10.55 | .50 | .80 | | .035 |
| Dynamite Men & Power Men | 12.05 | .50 | .80 | | .035 |
| Hod Carriers & Plasterer Tenders | 11.05 | .50 | .80 | | .035 |
| Freeburg & Vivinity | | | | | |
| Laborers | 10.75 | .50 | .60 | | .035 |
| Dynamite Men | 11.60 | .50 | .60 | | .035 |
| Man on the bottom of sewer | 11.00 | .50 | .60 | | .035 |
| O'Fallon, Masloutha, Scott AFB, Shilo & Lebannon & Vicinity | | | | | |
| Laborers | 10.75 | .50 | .60 | | .035 |
| Bottom men on sewer work | 11.00 | .50 | .60 | | .035 |
| Dynamite Men | 11.60 | .50 | .60 | | .035 |
| Freebury & Vicinity | | | | | |
| Laborers | 10.55 | .50 | .80 | | .035 |
| Dynamite Men | 12.05 | .50 | .80 | | .035 |
| Hod Carrier | 11.05 | .50 | .80 | | .035 |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #IL78-2122 - MOD #1 (43 FR 49186 - October 20, 1978) Peoria and Tazewell Counties, Illinois | | | | | |
| CHANGE: | | | | | |
| ELECTRICIANS | $12.32 | .50 | 3%+.75 | | 3/4 of 1% |
| LABORERS: | | | | | |
| Peoria County & the city of East Peoria (Tazewell County) | | | | | |
| Class 5 | 11.025 | .50 | .60 | | .035 |
| DECISION #IL78-2125 - MOD #2 (43 FR 49192 - October 20, 1978) Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, White and Williamson Counties, Illinois | | | | | |
| CHANGE: | | | | | |
| PAINTERS: | | | | | |
| Gallatin, Hardin, Pope, Saline Counties: | | | | | |
| Brush | $ 8.50 | | | | |
| Stru., Steel & Drywall | 8.75 | | | | |
| Spray | 9.25 | | | | |
| DECISION #IL78-2139 - MOD #3 (43 FR 51573 - November 3, 1978 Bureau, Carroll, Ogle, Rock Island, Stephenson, Whiteside, and Winnebago Counties, Illinois | | | | | |
| Change: | | | | | |
| CARPENTERS: | | | | | |
| Carroll, Stephenson and JoDaviess Counties | $11.65 | .55 | .75 | | |
| Whiteside County | 11.65 | .55 | .75 | | |
| Lee County | 11.425 | .55 | 1.00 | | |
| Rock Island and Henry Counties: Oregon and south thereof in Ogle County | 11.435 | .60 | .90 | | .04 |
| ELECTRICIANS: | | | | | |
| Bureau County; Twps. of Walnut, Ohio, Lamoille, Clarion, Bureau, Dover, Berlin and Westfield | $13.93 | .88 | 3%+.70 | | .2 of 1" |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #IL78-2144 - MOD #1 (43 FR 56379 - December 1, 1978) Alexander, Franklin, Gallatin Hardin, Jackson, Johnson, Massac Perry, Pope, Pulaski, Randolph, Saline, Union and Williamson Counties, Illinois | | | | | |
| ADD: PLUMBERS & STEAMFITTERS: Alexander, Hardin, Massac, Jackson, Johnson, Perry, Pope, Pulaski & Union Counties | $12.70 | .80 | .90 | | .08 |
| DECISION NO. IN77-2012 - Mod. #3 (42 FR 8913 - February 11, 1977) Jackson County, Indiana | | | | | |
| Change: Laborers | $2.90 | | | | |
| DECISION NO. IN77-2013 - Mod. #2 (42 FR 8913 - February 11, 1977) Jefferson County, Indiana | | | | | |
| Change: Laborers | $2.90 | | | | |
| DECISION NO. IN77-2015 - Mod. #1 (42 FR 8914 - February 11, 1977) Washington County, Indiana | | | | | |
| Change: Laborers | $2.90 | | | | |
| DECISION NO. IN77-2022 - Mod. #1 (42 FR 10197 - February 18, 1977) DuBois County, Indiana | | | | | |
| Change: Laborers | $2.90 | | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #KY76-1093 - Mod. #2 (41 FR 37472 - September 3, 1976) Adair, Cumberland, Green, Hart, Larue, Metcalfe, Monroe, & Taylor Counties, Kentucky | | | | | |
| CHANGE: Laborers | $ 2.90 | | | | |
| DECISION #KY76-1097 - Mod. #2 (41 FR 38707 - September 10, 1976) Clay, Estill, Jackson, Lee, Owsley, Powell, & Wolfe Counties, Kentucky | | | | | |
| CHANGE: Laborers | 2.90 | | | | |
| DECISION #KY76-1118 - Mod. #1 (41 FR 45801 - October 15, 1976) Caldwell, Christian, Crittenden, Livingston, Logan, Lyon, Todd, & Trigg Counties, Kentucky | | | | | |
| CHANGE: Laborers | 2.90 | | | | |
| DECISION #KY76-1136 - Mod. #2 (41 FR 53260 - December 3, 1976) Daviess, Hancock, Henderson, Hopkins, McLean, Muhlenberg, Union, & Webster Counties, Kentucky | | | | | |
| CHANGE: Laborers | 2.90 | | | | |

MODIFICATIONS P. 13

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #LA77-4031 - Mod. #2 (42 FR 10237 - February 18, 1977) Ouachita Parish, Louisiana | | | | | |
| Change: | | | | | |
| Laborers | $ 2.90 | | | | |
| Truck drivers | 2.90 | | | | |
| DECISION #MD77-3036 - Mod. #2 (42 FR 12613 - March 4, 1977) Wicomico County, Maryland | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Mortar Mixers | 2.90 | | | | |
| Unskilled | 2.90 | | | | |
| Truck Drivers | 2.90 | | | | |
| DECISION #MD77-3086 - Mod. #10 (42 FR 39880 - August 5, 1977) Alleghany & Garrett Counties, Maryland | | | | | |
| Change: | | | | | |
| Carpenters | 10.97 | .50 | .60 | | .02 |
| Cement Masons | 11.41 | .50 | | | |
| Electricians: | | | | | |
| Alleghany County | 10.90 | .80 | 3%+.60 | | 1% |
| Garrett County | 11.30 | .80 | 3%+.60 | | 1% |
| Linemen - Alleghany County | | | | | |
| Linemen | 10.90 | .80 | 3%+.60 | | |
| Equipment Operators | 10.36 | .80 | 3%+.60 | | |
| Truck Driver | 7.09 | .80 | 3%+.60 | | |
| Groundmen | 7.09 | .80 | 3%+.60 | | |
| Linemen - Garrett County | | | | | |
| Linemen | 11.30 | .80 | 3%+.60 | | |
| Equipment Operator | 10.76 | .80 | 3%+.60 | | |
| Truck Driver | 7.49 | .80 | 3%+.60 | | |
| Groundmen | 7.49 | .80 | 3%+.60 | | |
| Millwrights | 11.33 | .50 | .60 | | .02 |
| Painters: | | | | | |
| Brush, rollers, wall covering hangers and installation of seamless type floors | 7.95 | | .50 | | |
| Spray, sandblasting, and use of flame burning and power tools | 8.95 | | .50 | | |
| Toxic materials - Brush & Roller | 8.45 | | .50 | | |
| Toxic materials - Spray | 9.45 | | .50 | | |
| Piledrivermen | 11.27 | .50 | .60 | | .02 |
| Plasterers | 11.41 | .50 | | | |

MODIFICATIONS P. 14

DECISION #MD78-3002 - Mod. #4
(42 FR 9076 - March 3, 1978)
Alleghany & Garrett Counties, Maryland

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Carpenters | 10.86 | .50 | .60 | | .02 |
| Cement Masons | 11.17 | .50 | | | |
| Electricians: | | | | | |
| Alleghany County | 10.90 | .80 | 3%+.60 | | 1% |
| Garrett County | 11.30 | .80 | 3%+.60 | | 1% |
| Piledrivermen | 11.15 | .50 | .60 | | .02 |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| DECISION #MI77-2041 - Mod. #2 (42 FR 16355 - March 25, 1977 Branch, Cass, Kalamazoo & St. Joseph Counties, Michigan | | | | | |
| CHANGE: Under Laborers: Landscape Laborers | $2.90 | | | | |
| Decision # MS78-1018 Mod. # 2 (43 FR-9079 March 3, 1978) | | | | | |
| Area IV Counties: Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston Counties, Mississippi | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Unskilled | 2.90 | | | | |
| Truck Drivers | 2.90 | | | | |
| Power Equipment Operators: | | | | | |
| Mixer operator (all type) | 2.90 | | | | |
| Mulche Operator | 2.90 | | | | |
| Scales (all types) | 2.90 | | | | |
| Tractor operator (trash type) | 2.90 | | | | |
| Tractor Operator (wheel type) | 2.90 | | | | |
| Decision # MS78-1019 - Mod. # 2 (43 FR-9080 - March 3, 1978) | | | | | |
| Area I Counties: Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, and Webster Counties, Mississippi. | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Unskilled | 2.90 | | | | |
| Power Equipment Operators: | | | | | |
| Tractor Operator Wheel type | 2.90 | | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Decision # MS78-1020 - Mod. # 2 (43 FR-9081 - March 3, 1978) | | | | | |
| Area II Counties: Bolivar, Carroll, Coahoma, DeSoto, Grenada, LeFlore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington and Yalobusha Counties, Mississippi | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Unskilled | 2.90 | | | | |
| Asphalt raker | 2.90 | | | | |
| Truck Driver | 2.90 | | | | |
| Power Equipment Operators: | | | | | |
| Air compressor operator | 2.90 | | | | |
| Joint filler | 2.90 | | | | |
| Mulcher operator | 2.90 | | | | |
| Roller operator (self propelled) | 2.90 | | | | |
| Tractor Operator (wheel type) | 2.90 | | | | |
| Concrete breaker & hydro-hammer operator | 2.90 | | | | |
| Decision # MS78-1021 - Mod. # 3 (43 FR 9082 - dated March 3, 1978) | | | | | |
| Area V Counties: Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson Counties, Mississippi | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Unskilled | 2.90 | | | | |
| Power Equipment Operators | | | | | |
| Tractor Operator (Wheel Type) | 2.90 | | | | |

MODIFICATIONS P. 17

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Decision # MS77-1055 - Mod. # 2 (42 FR-23265 - May 6, 1977) LeFlore County, Mississippi. | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Laborers | 2.90 | | | | |
| Mortar mixers | 2.90 | | | | |
| Decision # MS77-1056 - Mod. #2 (42 FR-23266 - May 6, 1977) Yalobusha County, Mississippi | | | | | |
| Change: | | | | | |
| Laborers | 2.90 | | | | |
| Power Equipment Operators: | | | | | |
| Backhoe | 2.90 | | | | |
| Decision MS77-1057 - Mod. 2 (42 FR-23266 - May 6, 1977) Noxubee County, Mississippi | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Laborers | 2.90 | | | | |
| Decision # MS77-1069 - Mod. # 2 (42 FR-26094 - May 20, 1977) Bolivar County, Mississippi. | | | | | |
| Change: | | | | | |
| Ironworkers, reinforcing | 2.90 | | | | |
| Laborers: | | | | | |
| Laborers | 2.90 | | | | |
| Mortar mixers | 2.90 | | | | |
| Plasterers' tenders | 2.90 | | | | |
| Truck Drivers | 2.90 | | | | |
| Decision # MS76-1076 - Mod. # 2 (41 FR-29651 - July 16, 1976) Issaquena, Sharkey, Sunflower, and Washington Counties, Mississippi | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Laborers | 2.90 | | | | |
| Pipelayers | 2.90 | | | | |
| Truck Drivers | 2.90 | | | | |

MODIFICATIONS P. 18

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Decision # MS77-1078 - Mod. #4 (42 FR-31044 - June 17, 1977) Lowndes County (excluding Columbia Lock and Dam and Tennessee Tombigbee Project Mississippi | | | | | |
| Change: | | | | | |
| Laborers | 2.90 | | | | |
| DECISION #NV78-5018 - Mod. #7 (43 FR 11447 - March 17, 1978) Clark County (does not include the Nevada Test Site), Nevada | | | | | |
| Change: | | | | | |
| Boilermakers | $14.36 | $1.075 | $1.00 | $1.00 | .03 |
| Power Equipment Operators: | | | | | |
| (Except Piledriving and Steel Erection): | | | | | |
| Group 1 | 11.10 | 1.10 | 2.30 | .70 | .14 |
| Group 2 | 11.38 | 1.10 | 2.30 | .70 | .14 |
| Group 3 | 11.67 | 1.10 | 2.30 | .70 | .14 |
| Group 4 | 11.81 | 1.10 | 2.30 | .70 | .14 |
| Group 5 | 12.03 | 1.10 | 2.30 | .70 | .14 |
| Group 6 | 12.14 | 1.10 | 2.30 | .70 | .14 |
| Group 7 | 12.26 | 1.10 | 2.30 | .70 | .14 |
| Group 8 | 12.43 | 1.10 | 2.30 | .70 | .14 |
| Group 9 | 12.56 | 1.10 | 2.30 | .70 | .14 |
| Sheet Metal Workers | 14.71 | 1.14 | 1.61 | | .17 |

DECISION #NV78-5124 - Mod. #4
(43 FR 41351 - September 15, 1978)
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Boilermakers | $14.36 | $1.075 | $1.00 | $1.00 | .03 |
| Carpenters: | | | | | |
| Nye County (north of Hwy. #6, excluding City of Tonopah) and all Remaining Counties: | | | | | |
| Carpenters | 11.20 | .85 | 1.41 | 1.00 | .10 |
| Floor layers; Patent Scaffold Erectors; Power Saw Operators; Shingler | 11.35 | .85 | 1.41 | 1.00 | .10 |
| Piledrivermen | 11.45 | .85 | 1.41 | 1.00 | .10 |
| Millwrights | 11.80 | .85 | 1.41 | 1.00 | .10 |
| Drywall Installers: | | | | | |
| Statewide except the Counties of Clark, Esmeralda County (south of Hwy. #6), Lincoln Nye County (south of Hwy. #6) | 11.45 | .85 | 1.41 | 1.00 | .10 |
| Power Equipment Operators: (Except Piledriving and Steel Erection): | | | | | |
| Clark, Esmeralda, Lincoln Nye Counties: | | | | | |
| Group 1 | 11.10 | 1.10 | 2.30 | .70 | .14 |
| Group 2 | 11.38 | 1.10 | 2.30 | .70 | .14 |
| Group 3 | 11.67 | 1.10 | 2.30 | .70 | .14 |
| Group 4 | 11.81 | 1.10 | 2.30 | .70 | .14 |
| Group 5 | 12.03 | 1.10 | 2.30 | .70 | .14 |
| Group 6 | 12.14 | 1.10 | 2.30 | .70 | .14 |
| Group 7 | 12.26 | 1.10 | 2.30 | .70 | .14 |
| Group 8 | 12.43 | 1.10 | 2.30 | .70 | .14 |
| Group 9 | 12.56 | 1.10 | 2.30 | .70 | .14 |



DECISION #NJ78-3009 - Mod. #7
(42 FR 17223 - April 21, 1978)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, New Jersey

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Areas Covered by Laborers, Building Construction Zone: | | | | | |
| Zone 1 - Bergen (Garfield, Passaic, and Wallington Twps., Lodi, Athenia, Allwood, Dellawanna, and Clifton (to Piaget Ave.)) and Passaic Counties | | | | | |
| Electricians & Cable Splicers: Zone 4 | 13.40 | 7% | 3%+.70 | | |
| Laborers, Building Construction: | | | | | |
| Zone 1: | | | | | |
| Laborers, Air Tool Ops. (jackhammers and vibrators), Mason Tenders, Mortar Mixers, Pipelayers (concrete and clay) and Plasterers Tenders | 8.00 | .85 | .85 | | .07 |
| Zone 17: | | | | | |
| Common Laborers, Hod Carriers, Power Tool Ops., & Plasterer Tenders | 8.45 | .60 | .45 | | .07 |
| Line Construction: | | | | | |
| Zone 4 | | | | | |
| Linemen, Cable Splicers, Line Equipment Operators, & Groundmen | 13.40 | 7% | 6%+.75 | | 3/4% |
| Zone 5 | | | | | |
| Linemen, Cable Splicers, Line Equipment Operators, & Groundmen | 13.40 | 7% | 3%+.90 | | 3/4% |
| Zone 6 | | | | | |
| Linemen, Cable Splicers, Line Equipment Operators, & Groundmen | 13.40 | 7% | 3%+.70 | | 3/4% |

| DECISION #PA78-3005 - Mod. # 5 (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, Indiana, McKean, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Franklin, Fulton, Huntingdon, Mifflin and Potter Counties, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Ironworkers: | | | | | |
| Reinforcing | | | | | |
| Zone 1 | $8.60 | .785 | 1.215 | | .01 |

| DECISION #PA78-3012 - Mod. # 9 (43 FR 18476 - April 28, 1978) Clinton, Centre, Huntingdon, Fulton, & Mifflin Counties, Pennsylvania | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Painters: | | | | | |
| Zone 2 | | | | | |
| Commercial | | | | | |
| Brush & Roller | $10.39 | .75 | .45 | | .02 |
| Spray | 10.44 | .75 | .45 | | .02 |
| Industrial | | | | | |
| Brush & Steel | 10.94 | .75 | .45 | | .02 |
| Spray | 11.64 | .75 | .45 | | .02 |
| Roofers | | | | | |
| Zone 2 | | | | | |
| Composition & Kettleman | 10.15 | .90 | .85 | | |
| Sheet metal workers | | | | | |
| Zone 1 | 11.09 | .65 | .71 | | .02 |



| DECISION #TN78-1058 - Mod. #5 (43 FR 29464 - July 7, 1978) Hamilton, Marion, Polk, and Rhea Counties, Tennessee | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE: | | | | | |
| Bricklayers, Stone Masons, Cement Masons, & Plasterers: | | | | | |
| Polk County Only | $ 9.20 | | | | |
| Carpenters, Carpet Layers, & Floor Layers | 9.58 | .55 | .60 | | .08 |
| Ironworkers | 9.76 | .70 | .65 | | 1% |
| Millwrights | 10.03 | .55 | .60 | | .08 |
| Piledrivermen | 9.705 | .55 | .60 | | .08 |

| DECISION #TN78-1091 - Mod. #2 (43 FR 49207 - October 20, 1978) Shelby County, Tennessee | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CHANGE: | | | | | |
| Bricklayers & Stone Masons | 11.40 | .63 | .30 | | .10 |
| Sheet Metal Workers | 11.71 | 1.04 | .25 | | .04 |

| DECISION #TX78-4039 - Mod. #2 (43 FR 16130 - April 14, 1978) Howard County, Texas | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Ironworkers, structural & ornamental | $ 9.40 | .55 | 1.00 | | .10 |
| Truck drivers | 2.90 | | | | |
| **DECISION #TX78-4081 - Mod. #6 (43 FR 36851 - August 18, 1978) Bexar County, Texas** | | | | | |
| Change: | | | | | |
| Marble setters | 9.29 | .45 | .30 | .25 | |
| Terrazzo workers | 9.29 | .45 | .30 | .25 | |
| Tile setters | 9.29 | .45 | .30 | .25 | |
| **DECISION #TX78-4086 - Mod. #2 (43 FR 38285 - August 25, 1978) Tom Green County, Texas** | | | | | |
| Change: | | | | | |
| Carpenters | 9.25 | | | | .02 |
| Ironworkers: | | | | | |
| Ironworkers | 9.40 | .55 | 1.00 | | .10 |
| On jobs 30 miles or more from the city of San Angelo | 9.525 | .55 | 1.00 | | .10 |
| Laborers | 2.90 | | | | |
| Truck drivers | 2.90 | | | | |
| **DECISION #TX78-4089 - Mod. #1 (43 FR 41363 - September 15, 1978) Bee, Kleberg, Nueces & San Patricio Counties, Texas** | | | | | |
| Change: | | | | | |
| Laborers: | | | | | |
| Laborers | 2.90 | | | | |
| **DECISION #TX78-4090 - Mod. #4 (43 FR 31364 - September 15, 1978) Bowie County, Texas** | | | | | |
| Change: | | | | | |
| Carpenters: Carpenters | 9.00 | | | | .01 |
| Millwrights | 11.20 | | | | .04 |
| Piledrivermen | 9.70 | | | | .01 |
| Ironworkers | 11.05 | .45 | .90 | | .06 |
| Plumbers & pipefitters | 11.70 | .50 | .65 | | .05 |



| DECISION #TX78-4091 - Mod. #4 (43 FR 41365 - September 15, 1978) Gregg County, Texas | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | Education and/or Appr. Tr. |
|---|---|---|---|---|---|
| Change: | | | | | |
| Bricklayers | $10.80 | | .45 | | .05 |
| Carpenters: Carpenters | 8.75 | | | | .015 |
| Millwrights | 11.00 | | | | .015 |
| Piledrivermen | 9.25 | | | | .015 |
| **DECISION #TX78-4092 - Mod. #1 (43 FR 41365 - September 15, 1978) Smith County, Texas** | | | | | |
| Change: | | | | | |
| Carpenters | 8.65 | | | | |
| Truck drivers | 2.90 | | | | |
| **DECISION #TX78-4094 - Mod. #2 (43 FR 43233 - September 22, 1978) Statewide Texas** | | | | | |
| Change: | | | | | |
| Zone 4: | | | | | |
| Asphalt shoveler | 2.90 | | | | |
| Batterboard setter | 2.90 | | | | |
| Form liner (paving & curb) | 2.90 | | | | |
| Laborer, common | 2.90 | | | | |
| Zone 6: | | | | | |
| Air tool man | 2.90 | | | | |
| Form setter helper (paving & curb) | 2.90 | | | | |
| Laborer, common | 2.90 | | | | |
| Pipelayer helper | 2.90 | | | | |
| Tractor (crawler type) 150 HP and less | 2.90 | | | | |
| **DECISION #TX78-4095 - Mod. #4 (43 FR 43241 - September 22, 1978) Ector & Midland Cos., Texas** | | | | | |
| Change: | | | | | |
| Asbestos workers | 10.50 | .80 | .95 | | .07 |
| Carpenters | 9.70 | | | | .05 |
| Ironworkers: | | | | | |
| Structural; Ornamental; Reinforcing | 9.40 | .55 | 1.00 | | .10 |
| All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland) | 9.525 | .55 | 1.00 | | .10 |

MODIFICATIONS P. 25

| DECISION #TX78-4114 - Mod. #4 (43 FR 49208 - October 20, 1978) Lubbock County, Texas | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Asbestos workers | $10.50 | .80 | .95 | | .07 |
| Carpenters | 9.50 | .48 | .50 | | .01 |
| Ironworkers: | | | | | |
| Structural; Ornamental; Reinforcing | 9.40 | .55 | 1.00 | | .10 |
| All ironworkers on jobs 30 miles or more from the city of Lubbock | 9.525 | .55 | 1.00 | | .10 |
| Power Equipment Operators: | | | | | |
| Group 1 | 8.175 | .40 | .625 | | .10 |
| Group 2 | 9.075 | .40 | .625 | | .10 |
| Group 3 | 9.475 | .40 | .625 | | .10 |
| **DECISION #TX78-4115 - Mod. #3** (43 FR 56408 - December 1, 1978) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas | | | | | |
| Change: | | | | | |
| Bricklayers & stonemasons: | | | | | |
| Zone 1 | 10.10 | | | | |
| Carpenters: | | | | | |
| Zone 1 - Carpenters | 10.43 | .55 | .40 | | .005 |
| Millwrights | 10.83 | .55 | .40 | | .005 |
| Piledrivermen | 10.93 | .55 | .40 | | .005 |
| Sheet metal workers - Zone 2 | 10.88 | | | | .07 |

MODIFICATIONS P. 26

DECISION #WV77-3083 - Mod. #7
(42 FR 53172 - September 30, 1977)
Statewide, West Virginia

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Change: | | | | | |
| Bricklayers & Stonemasons: | | | | | |
| Area 2 | 11.53 | .55 | .50 | a | .03 |
| Area 3 | 11.09 | .65 | .62 | | .02 |
| Area 6 | 11.25 | .60 | | | |
| Electricians: | | | | | |
| Area 1 | | | | | |
| Wiremen | 13.00 | .50 | 3%+.27 | | .04 |
| Cable Splicers | 14.30 | .50 | 3%+.27 | | .04 |
| Area 3 | | | | | |
| Wiremen | 10.05 | .50 | 3%+.52 | 2.02 | .03 |
| Cable Splicers | 11.055 | .50 | 3%+.52 | 2.02 | .03 |
| Area 6 | | | | | |
| Contracts under $12,000: | | | | | |
| Wiremen | 6.05 | .50 | 3%+1.02 | 1.52 | .02 |
| Contracts over $12,000: | | | | | |
| Wiremen | 10.45 | .50 | 3%+1.02 | 1.52 | .02 |
| Cable Splicers | 10.60 | .50 | 3%+1.02 | 1.52 | .02 |
| Area 7 | | | | | |
| Wiremen | 11.10 | .50 | 3%+1.27 | 1.27 | .04 |
| Cable Splicers | 11.35 | .50 | 3%+1.27 | 1.27 | .04 |
| Area 8 | | | | | |
| Wiremen | 11.82 | .50 | 3%+.82 | 1.02 | .04 |
| Cable Splicers | 12.41 | .50 | 3%+.82 | 1.02 | .04 |
| Area 9 | | | | | |
| Wiremen | 12.27 | .50 | 3%+.82 | 1.02 | .04 |
| Cable Splicers | 12.88 | .50 | 3%+.82 | 1.02 | .04 |
| Area 10 | | | | | |
| Wiremen | 12.02 | .50 | 3%+.82 | 1.02 | .04 |
| Cable Splicers | 12.62 | .50 | 3%+.82 | 1.02 | .04 |
| Area 11 | | | | | |
| Wiremen | 10.90 | .80 | 3%+.60 | | 1% |
| Area 12 | | | | | |
| Wiremen | 10.90 | .80 | 3%+.60 | | 1% |
| Area 13 | | | | | |
| Wiremen | 11.50 | .80 | 3%+.60 | | 1% |
| Ironworkers: | | | | | |
| Area 3 | 11.17 | .90 | 1.20 | | .01 |
| Area 6 | 10.05 | .70 | .75 | | .03 |
| Line Construction: | | | | | |
| Area 3 | | | | | |
| Linemen & Equipment Operators | 11.00 | .60 | 3%+1.27 | 1.27 | ½% |
| Cable Splicers | 12.10 | .60 | 3%+1.27 | 1.27 | ½% |
| Groundmen | 8.80 | .60 | 3%+1.27 | 1.27 | ½% |

MODIFICATIONS P. 27

DECISION #WV77-3083 - Mod. #7

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Line Construction : (Cont'd) | | | | | |
| Area 4 | | | | | |
| Linemen & Equipment Operators | 10.05 | .50 | 3%+.52 | 2.02 | ½% |
| Cable Splicers | 11.055 | .50 | 3%+.52 | 2.02 | ½% |
| Groundmen | 8.04 | .50 | 3%+.52 | 2.02 | ½% |
| Area 7 | | | | | |
| Linemen & Equipment Operators | 10.45 | .50 | 3%+1.02 | 1.52 | ½% |
| Cable Splicers | 11.495 | .50 | 3%+ 1.02 | 1.52 | ½% |
| Groundmen & Truck Drivers | 8.36 | .50 | 3%+1.02 | 1.52 | ½% |

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTY: WARE
DECISION NUMBER: GA79-1012 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA75-1113, dated December 12, 1975, in 40 FR 58034.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including four stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BRICKLAYERS | $ 7.20 | | | | |
| CARPENTERS | 5.50 | | | | |
| CEMENT MASONS | 5.00 | | | | |
| ELECTRICIANS | 5.50 | | | | |
| GLAZIERS | 3.48 | | | | |
| IRONWORKERS | 4.43 | | | | |
| LABORERS: | | | | | |
| Unskilled | 2.90 | | | | |
| Plasterer tenders | 3.00 | | | | |
| Mortar mixers | 3.25 | | | | |
| PAINTERS | 3.50 | | | | |
| PLASTERERS | 6.00 | | | | |
| PLUMBERS & PIPEFITTERS | 5.00 | | | | |
| ROOFERS | 4.50 | | | | |
| SHEET METAL WORKERS | 5.25 | | | | |
| TRUCK DRIVERS | 4.20 | | | | |
| WELDERS - Rate for craft. | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Backhoe | 3.25 | | | | |
| Bulldozer | 4.00 | | | | |
| Crane, derrick, dragline | 4.00 | | | | |
| Motor grader | 3.00 | | | | |
| Pump | 3.25 | | | | |
| Scraper | 2.90 | | | | |

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTIES: DEKALB & FULTON
DECISION NUMBER: GA79-1013 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA78-1092, dated October 27, 1978, in 43 FR 50302.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION (does not include Sewer & Water Lines Construction).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BRICK MASONS | $ 9.85 | .55 | .50 | | .05 |
| CARPENTERS | 9.85 | .50 | .45 | | .02 |
| CEMENT MASONS/FINISHERS | 9.20 | .40 | .55 | | |
| ELECTRICIANS | 11.15 | 9% | 11% | | ½ of 1% |
| IRONWORKERS | 9.95 | .70 | .67 | | .07 |
| LABORERS: | | | | | |
| Unskilled | 6.55 | .25 | .33 | | .05 |
| Air tool operators (air, electric or gas powered, such as jackhammer, paving breaker, tamper, vibrator, spade, chipping hammer, & barco tamp), & pipelayers | 6.77 | .25 | .33 | | .05 |
| PAINTERS: | | | | | |
| Brush & Roller | 9.65 | .55 | .75 | | .05 |
| Spray | 10.65 | .55 | .75 | | .05 |
| PILEDRIVERMEN | 10.00 | .50 | .45 | | .02 |
| PLUMBERS & PIPEFITTERS | 11.15 | .65 | .50 | | .11 |
| SHEET METAL WORKERS | 10.60 | .50 | .81 | | .07 |
| TRUCK DRIVERS | 6.13 | | | | |
| WATERPROOFERS (ROOFERS) | 7.45 | .30 | .20 | | |
| WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Backhoe | 9.30 | .55 | .75 | | .07 |
| Bulldozer | 8.95 | .55 | .75 | | .07 |
| Crane | 9.30 | .55 | .75 | | .07 |
| Front end loader | 8.95 | .55 | .75 | | .07 |
| Mechanic | 9.30 | .55 | .75 | | .07 |
| Motor grader | 8.95 | .55 | .75 | | .07 |
| Pump | 6.73 | .55 | .75 | | .07 |

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTIES: CLAYTON, DEKALB, & FULTON
DECISION NO.: GA79-1014 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA78-1077, dated September 8, 1978, in 43 FR 40174.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $10.40 | .55 | .75 | | .10 |
| BOILERMAKERS | 10.70 | 1.05 | 1.10 | | .02 |
| BRICKLAYERS & STONE MASONS | 9.85 | .55 | .50 | | .05 |
| CARPENTERS, DRYWALL HANGERS, & RESILIENT FLOOR LAYERS | 9.85 | .50 | .45 | | .02 |
| CARPET LAYERS | 7.90 | .50 | .45 | | .02 |
| CEMENT MASONS | 9.20 | .40 | .55 | | |
| ELECTRICIANS: | | | | | |
| Wiremen | 11.15 | 9% | 11% | | ½ of 1% |
| Cable splicers | 12.05 | 9% | 11% | | ½ of 1% |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Mechanics | 9.595 | .745 | .56 | 4%+a+b | .025 |
| Helpers | 6.72 | .745 | .56 | 4%+a+b | .025 |
| GLAZIERS | 9.20 | .70 | .43 | .75 | .11 |
| IRONWORKERS - Structural, Reinforcing, & Ornamental | 9.95 | .70 | .67 | | .07 |
| LATHERS | 9.60 | .40 | .35 | | .05 |
| LEAD BURNERS | 10.75 | .40 | .25 | c | .01 |
| MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS | 9.70 | .55 | .50 | | |
| MARBLE, TILE, & TERRAZZO FINISHERS | 6.65 | | | | |
| MILLWRIGHTS | 10.15 | .45 | .50 | | .05 |
| PAINTERS: | | | | | |
| Brush, roller, & drywall finishers | 9.65 | .55 | .75 | | .05 |
| Paperhangers | 9.90 | .55 | .75 | | .05 |
| Drywall taping (where pressurized tools are used), boatswain chair & window-jack work, all steel above 25' (where no scaffold is erected), & any scaffold above 25' (where not floored solid) | 10.15 | .55 | .75 | | .05 |
| Spray, steamcleaning, waterblasting, sandblasting, steeplejack work, gold leafing, stencil designing, & graining, marbelizing | 10.65 | .55 | .75 | | .05 |

DECISION NO. GA79-1014

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PILEDRIVERMEN | $10.00 | .50 | .45 | | .02 |
| PLASTERERS | 9.67 | .40 | .55 | | |
| PLUMBERS & PIPEFITTERS | 11.15 | .65 | .50 | | .11 |
| ROOFERS | 7.45 | .30 | .20 | | |
| SHEET METAL WORKERS | 10.60 | .50 | .81 | | .07 |
| SPRINKLER FITTERS | 10.80 | .75 | 1.05 | | .08 |
| WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate of employees with 5 years or more of service, or 2% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.



DECISION NO. GA79-1014

| LABORERS: | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Group 1 | $ 6.55 | .25 | .33 | | .05 |
| Group 2 | 6.77 | .25 | .33 | | .05 |
| Group 3 | 7.05 | .25 | .33 | | .05 |
| Group 4 | 7.30 | .25 | .33 | | .05 |
| Group 5 | 7.62 | .25 | .33 | | .05 |
| Group 6 (25¢ above rate for classification under which employed) | | | | | |

Group 1 - Batch plant man; buggy rollers (Ga.); cleaners, brick or lumber; clearing of right-of-way & building site (hand tools); concrete curer-sealer and liquid hardner; conveyor operator, used in tending plasterers & bricklayers; electricians laborer; excavator, backfiller, grader, hand; forklift operator, walk-type mech. used in tending plasterers and bricklayers; form oilers; form stripper; metal pan handler; plumber laborer; pipe doper; precast slab layer (floor, roofs, walks, curbs); puddlers, concrete; rail porter; railroad track laborer; reinforcing steel handler; scaffolds and staging for masons & plasterers, erecting & removing; scarifyer, concrete, mech. or hand; sheeting and shoring laborers; steam jennies, used in cleaning equipment; tenders (all crafts); tool room man; truck-spotter dumper; water boy; winch handler (manual); wrecking buildings & miscellaneous structures.

Group 2 - All tool operators: air, electric or gas powered, such as jackhamer, paving breaker, tampers, vibrator, spade, chipping hammer, & barco tamp.; bucket dump man, concrete; burner demolition work; chain saw operator; flagman; form setter, steel; mixer, mortar, cement grout clay, etc. (hand machine oper.); mortar mixer used in connection with hose for gypsum roofs, plastering, asbestos, fiber, soundproofing, etc.; mortorized post hole digger; power saw operator, concrete, outside building; steam cleaning machine operator; sewer pipe layer, yarner, wiper & pot man; slip form raiser, steel or wood, jack or screw type; wheelbarrow operator, motorized.

Group 3 - Powderman helper; wagon drill operator, track or wheel type and other equipment used in drilling for blasting.

Group 4 - Caisson work, hole man; tunnel laborer.

Group 5 - Nozzleman, concrete pneu.; powderman.

Group 6 - Chimneys or stacks, isolated.

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DECISION NO. GA79-1014

| POWER EQUIPMENT OPERATORS: | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP A | $ 9.30 | .55 | .75 | | .07 |
| GROUP B | 8.95 | .55 | .75 | | .07 |
| GROUP C | 7.28 | .55 | .75 | | .07 |
| GROUP D | 7.63 | .55 | .75 | | .07 |
| GROUP E | 6.73 | .55 | .75 | | .07 |
| GROUP F | 7.08 | .55 | .75 | | .07 |
| GROUP G | 6.06 | .55 | .75 | | .07 |

GROUP A: Backhoe operators, clamshell operator, conc. mix operator, cent, mix plant, conc. pump operator-Ridley or similar type, crane operator (truck, tower, crawler, or locomotive), derrick operator, dragline operator, drill operator-caisson foundation type, elevating grader operator, forklift operator that comes within the jurisdiction of the Operating Engineers hoisting engine operator, locomotive operator, mechanics-heavy duty, oilers on cranes with earth boring drill attached with a separate power source, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 ft. depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor) generator operator-75 K. VA. and over, tugger hoist operator, winch truck operator, hoisting material, air compressor operator, 365 C.F.M. and over furnishing air simultaneously for more than one contractor.

GROUP B: Bulldozer operator, dozer shovel operator, drill operator-Quarry master type, firemen-sationary or portable, motor grader operator, motor scraper operator (pans), pusher dozer operator, self-propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator up to and including 6 ft. depth capacity.

GROUP C: Air compressor operator 600 cu. ft. and over, air compressor operator batt. of two, 300 cu. ft. and over, hydrohammer operator, concrete batch plant operator.

GROUP D: Oiler-grease truck, truck or locomotive crane.

GROUP E: Oiler-unspecified, pump operator over 4" up to batteries of 4, welding machine operator, batteries of 4 or more, portable, gasoline or diesel driven.

GROUP F: Concrete mixer operator skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator, well drill operator

GROUP G: Air compressor operator up to and including 300 cu. ft. or one machine over 300 but less than 600 cu. ft. conveyor operator, belt type, sand blasting machine operator, water pump operator 4" or less. water pump operator over 4" (one only).

SUPERSEDEAS DECISION

STATE: Louisiana PARISH: Statewide
DECISION NO.: LA79-4001 DATE: Date of Publication
Supersedes Decision No. LA78-4099 dated October 6, 1978, in 43 FR 46449.
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 strucutes 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 | | | |
|---|---|---|---|---|---|---|
| | | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | ZONE 1 | $11.47 | .525 | .90 | | .04 |
| | ZONE 2 | 10.83 | .50 | .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 | | | |
|---|---|---|---|---|---|---|
| | | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BOILERMAKERS | | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS & STONEMASONS | | | | | | |
| | ZONE 1 | 11.05 | .80 | .75 | | .31 |
| | ZONE 2 | 9.90 | .53 | | | |
| | ZONE 3 | 11.45 | .53 | .60 | | .05 |
| | ZONE 4 | 11.00 | .50 | .35 | | .035 |
| | ZONE 5 | 10.25 | | | | |
| | ZONE 6 | 10.25 | .40 | .45 | | |
| | ZONE 7 | 8.95 | | .30 | | |
| | ZONE 8 | 10.85 | | .25 | | |
| | ZONE 9 | 11.00 | | | | |

ZONE 1 - Ascension, Assumption, 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 & Vermilion Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARPENTERS (BUILDING CONSTRUCTION) | | | | | |
| ZONE 1 - Carpenters | 9.35 | .50 | | | |
| Millwrights | 10.07 | .50 | | | |
| Piledrivermen | 10.25 | .50 | | | |
| ZONE 2 - Carpenters, piledrivermen & soft floor layers | 10.35 | .60 | .33 | | .07 |
| Millwrights | 12.05 | | | | .07 |
| ZONE 3 - Carpenters | 10.30 | .55 | .40 | | |
| Millwrights | 11.75 | .55 | .40 | | |
| Piledrivermen | 10.60 | .55 | .40 | | |
| ZONE 4 - Carpenters & piledrivermen | 11.00 | .50 | .60 | | .05 |
| Millwrights | 12.425 | | | | .08 |
| ZONE 5 - Carpenters & soft floor layers | 10.62 | .55 | .40 | | .04 |
| Millwrights | 11.01 | .55 | .40 | | .04 |
| Piledrivermen | 10.72 | .55 | .40 | | .04 |
| ZONE 6 - Carpenters & soft floor layers | 10.455 | .55 | .40 | | .04 |
| Millwrights | 11.01 | .55 | .40 | | .04 |
| Piledrivermen | 10.72 | .55 | .40 | | .04 |
| ZONE 7 - Carpenters & soft floor layers | 10.00 | | | | |
| Millwrights | 10.75 | | | | |
| Piledrivermen | 10.50 | | | | |
| ZONE 8 - Carpenters & soft floor layers | 9.85 | .45 | .35 | | .04 |
| Millwrights | 10.60 | .45 | .35 | | .04 |
| Piledrivermen | 10.10 | .45 | .35 | | .04 |



DECISION NO. LA79-4001

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 9 - Carpenters & soft floor layers | $ 9.90 | | | | |
| Millwrights | 10.65 | | | | |
| Piledrivermen | 10.40 | | | | |
| 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 & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (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 Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars. 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 | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARPENTERS & PILEDRIVERMEN (HIGHWAY CONSTRUCTION): | | | | | |
| ZONE 1 | 10.36 | | | | |
| ZONE 2 | 11.36 | | | | |
| ZONE 3 | 11.47 | | | | |
| ZONE 4 | 10.775 | | | | |
| ZONE 5 | 9.47 | | | | |
| ZONE 6 | 9.25 | | | | |
| ZONE 7 | 8.70 | | | | |

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. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, 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 Pars.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CEMENT MASONS (BUILDING CONSTRUCTION): | | | | | |
| ZONE 1 | $10.11 | | | | |
| ZONE 2 | 9.45 | | | | |
| ZONE 3 | 9.25 | .50 | .50 | | .05 |
| ZONE 4 | 10.445 | .45 | .40 | | .04 |
| ZONE 5 | 9.35 | | | | |
| ZONE 6 | 7.25 | | | | |
| ZONE 7 | 9.30 | .35 | | | |
| ZONE 8 | 9.57 | | .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 Par
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
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
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, Ouachit Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 9 - Natchitoches & Sabine Parishes

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CEMENT MASONS (HIGHWAY CONSTRUCTION) | | | | | |
| ZONE 1 | 9.50 | .45 | .40 | | |
| ZONE 2 | 6.45 | | | | |
| ZONE 3 | 9.35 | .35 | | | |
| ZONE 4 | 9.70 | | | | |
| ZONE 5 | 9.20 | | | | |
| ZONE 6 | 8.70 | | | | |
| ZONE 7 | 9.20 | | | | |
| On concrete lined ditches | 9.25 | .50 | .50 | | .05 |
| ZONE 8 | 8.70 | | | | |
| On concrete lined ditches | 9.25 | .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 Pars.
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 Pars.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ELECTRICIANS: | | | | | |
| ZONE 1 - Electricians | $13.04 | 5% | 8% | | 3/10% |
| Cable splicers | 13.29 | 5% | 8% | | 3/10% |
| ZONE 2 - Electricians | 11.35 | .35 | 3% | | .02 |
| Cable splicers | 12.05 | .35 | 3% | | .02 |
| ZONE 3 - Electricians | 13.05 | .35 | 3%+.40 | | 1/10% |
| Cable splicers | 13.30 | .35 | 3%+.40 | | 1/10% |
| ZONE 4 - Electricians | 12.30 | .35 | 3% | | 2/10% |
| Cable splicers | 12.55 | .35 | 3% | | 2/10% |
| ZONE 5 - Electricians | 11.90 | .35 | 3%+.40 | | .03 |
| Cable splicers | 11.90 | .35 | 3%+.40 | | .03 |
| ZONE 6 - Electricians | 11.55 | .75 | 3% | | 1/2% |
| Cable splicers | 12.05 | .75 | 3% | | 1/2% |
| ZONE 7 - Electricians | 12.05 | 1.15 | 3% | | 1% |
| Cable splicers | 12.55 | 1.15 | 3% | | 1% |
| ZONE 8 - Electricians | 11.15 | | 3% | .30 | 1/2% |
| Cable splicers | 11.40 | | 3% | .30 | 1/2% |

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge, & West Feliciana Pars.
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 Pars.
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



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ELEVATOR CONSTRUCTORS | | | | | |
| ZONE 1 - Mechanics | 9.76 | .545 | .35 | 4%+a+b | .02 |
| Helpers | 70%JR | .545 | .35 | 4%+a+b | .02 |
| Helpers (Probationary) | 50%JR | | | | |
| ZONE 2 - Mechanics | 9.595 | .745 | .35 | 4%+a+b | .02 |
| Helpers | 70%JR | .745 | .35 | 4%+a+b | .02 |
| Helpers (Probationary) | 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 Pars.
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 | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GLAZIERS - ZONE 1 | 10.15 | | | | .02 |
| ZONE 2 | 8.15 | | | | .01 |
| ZONE 3 | 10.225 | .17 | .30 | | .01 |
| ZONE 4 | 8.68 | | .30 | | .04 |
| ZONE 5 | 6.80 | | | | |
| ZONE 6 | 8.10 | | | | |

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 Pars.
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 | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| IRONWORKERS (BUILDING CONSTRUCTION) | | | | | |
| ZONE 1 | $11.06 | .63 | .35 | | .04 |
| ZONE 2 | 11.14 | .45 | .75 | | .04 |
| ZONE 3 | 11.05 | .45 | .90 | | .06 |
| ZONE 4 | 11.00 | .45 | 1.15 | | .06 |
| ZONE 5 | 10.00 | .45 | .85 | | .04 |
| ZONE 6 | 11.10 | .35 | .60 | | .05 |

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (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 Pars., Parts of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. 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 Pars. (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 Pars. (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 Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (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)



ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (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 Pars. (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 Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline Pars.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| IRONWORKERS (HIGHWAY CONSTRUCTION) | | | | | |
| ZONE 1 | $11.52 | | | | |
| ZONE 2 | 8.70 | | | | |
| ZONE 3 | 11.10 | | | | |
| ZONE 4 | 10.96 | | | | |
| ZONE 5 | 9.25 | | | | |
| ZONE 6 | 8.70 | | | | |
| ZONE 7 | 6.99 | | | | |
| ZONE 8 | 6.45 | | | | |
| ZONE 9 | 5.84 | | | | |

ZONE 1 - Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars.
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, Vermilion, Washington, Webster & West Baton Rouge Pars.
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

DECISION NO. LA79-4001

| LABORERS (BUILDING CONSTRUCTION): | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 1 - Group 1 | $ 6.45 | .15 | | | |
| Group 2 | 6.60 | .15 | | | |
| Group 3 | 6.70 | .15 | | | |
| ZONE 2 - Group 1 | 6.47 | .25 | .15 | | .05 |
| Group 2 | 6.67 | .25 | .15 | | .05 |
| ZONE 3 - Group 1 | 7.95 | .25 | .15 | | .05 |
| Group 2 | 8.05 | .25 | .15 | | .05 |
| Group 3 | 8.10 | .25 | .15 | | .05 |
| Group 4 | 8.91 | .25 | .15 | | .05 |
| Group 5 | 8.47 | .25 | .15 | | .05 |
| Group 6 | 8.31 | .25 | .15 | | .05 |
| Group 7 | 8.00 | .25 | .15 | | .05 |
| Group 8 | 8.20 | .25 | .15 | | .05 |
| ZONE 4 - Group 1 | 7.22 | .25 | .27 | | .05 |
| Group 2 | 7.32 | .25 | .27 | | .05 |
| Group 3 | 7.37 | .25 | .27 | | .05 |
| ZONE 5 - Group 1 | 6.82 | .25 | .27 | | .05 |
| Group 2 | 6.92 | .25 | .27 | | .05 |
| Group 3 | 6.97 | .25 | .27 | | .05 |
| ZONE 6 - Group 1 | 7.90 | .25 | .27 | | .05 |
| Group 2 | 8.00 | .25 | .27 | | .05 |
| Group 3 | 8.15 | .25 | .27 | | .05 |
| Group 4 | 8.06 | .25 | .27 | | .05 |
| Group 5 | 8.16 | .25 | .27 | | .05 |
| ZONE 7 - Group 1 | 7.575 | .25 | .27 | | .05 |
| Group 2 | 7.725 | .25 | .27 | | .05 |
| Group 3 | 7.775 | .25 | .27 | | .05 |
| ZONE 8 - Group 1 | 6.06 | .25 | .15 | | .05 |
| Group 2 | 6.26 | .25 | .15 | | .05 |
| Group 3 | 6.31 | .25 | .15 | | .05 |
| Group 4 | 6.36 | .25 | .15 | | .05 |
| Group 5 | 6.71 | .25 | .15 | | .05 |
| ZONE 9 - Group 1 | 6.65 | .25 | .15 | | .05 |
| Group 2 | 6.75 | .25 | .15 | | .05 |
| Group 3 | 6.80 | .25 | .15 | | .05 |
| Group 4 | 6.85 | .25 | .15 | | .05 |
| ZONE 10 - Group 1 | 6.40 | .25 | .15 | | .05 |
| Group 2 | 6.50 | .25 | .15 | | .05 |
| Group 3 | 6.65 | .25 | .15 | | .05 |



DECISION NO. LA79-4001

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction

GROUP 2 - Stone mason helpers; mechanical tool operators; sewermen (bottom 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 clased tanks & vessels power equipped

GROUP 3 - Mortar mixers

GROUP 4 - Blasterers

GROUP 5 - Blaster helpers; concrete cutters behind paving machine & puddlers; form setters & liner asphalt worker

GROUP 6 - Wiping joints, laying pipe & tile from purpcrete

GROUP 7 - Interior of closed tanks & vessels manually

GROUP 8 - Jackhammer operators

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., sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. & over), sandblaster (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 - Jackhammermen, sewermen, mason tenders, plasterer tenders, stone masons helpers, vibratormen

GROUP 3 - Mortar mixers

LABORERS - ZONE 8

GROUP 1 - Common laborers; carpenter helpers; mason tenders (other than cement); plasterer 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 artifical 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 Pearlington), 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, Jefferson Davis & Vernon Parishes
ZONE 4 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.;Parts of Assumption, St. James, St. John the Baptist Pars. (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 Lutcher 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 Lutcher & north to Blind River & Manchac & St. Tammany (north as far as Bayou Lacombe, east to th Miss. State Line at Pearlington) 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 Pars.
ZONE 10 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.



| | | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|---|
| | | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS | (HIGHWAY CONSTRUCTION) | | | | | |
| GROUP 1 - | Zone 1 | $ 6.58 | .25 | .27 | | .05 |
| | Zone 2 | 4.80 | .15 | .10 | | .05 |
| | Zone 3 | 5.94 | .25 | .21 | | .05 |
| | Zone 4 | 6.64 | .25 | .21 | | .05 |
| | Zone 5 | 5.74 | .25 | .21 | | .05 |
| | Zone 6 | 5.54 | .25 | .21 | | .05 |
| | Zone 7 | 4.10 | .15 | .10 | | .05 |
| | Zone 8 | 3.85 | .15 | .10 | | .05 |
| | Zone 9 | 3.75 | .15 | .10 | | .05 |
| GROUP 2 - | Zone 1 | 6.68 | .25 | .27 | | .05 |
| | Zone 2 | 4.90 | .15 | .10 | | .05 |
| | Zone 3 | 6.04 | .25 | .21 | | .05 |
| | Zone 4 | 6.74 | .25 | .21 | | .05 |
| | Zone 5 | 5.84 | .25 | .21 | | .05 |
| | Zone 6 | 5.64 | .25 | .21 | | .05 |
| | Zone 7 | 4.20 | .15 | .10 | | .05 |
| | Zone 8 | 3.95 | .15 | .10 | | .05 |
| | Zone 9 | 3.85 | .15 | .10 | | .05 |
| GROUP 3 - | Zone 1 | 7.13 | .25 | .27 | | .05 |
| | Zone 2 | 5.35 | .15 | .10 | | .05 |
| | Zone 3 | 6.49 | .25 | .21 | | .05 |
| | Zone 4 | 7.19 | .25 | .21 | | .05 |
| | Zone 5 | 6.29 | .25 | .21 | | .05 |
| | Zone 6 | 6.09 | .25 | .21 | | .05 |
| | Zone 7 | 4.65 | .15 | .10 | | .05 |
| | Zone 8 | 4.40 | .15 | .10 | | .05 |
| | Zone 9 | 4.30 | .15 | .10 | | .05 |
| GROUP 4 - | Zone 1 | 7.38 | .25 | .27 | | .05 |
| | Zone 2 | 5.60 | .15 | .10 | | .05 |
| | Zone 3 | 6.74 | .25 | .21 | | .05 |
| | Zone 4 | 7.44 | .25 | .21 | | .05 |
| | Zone 5 | 6.49 | .25 | .21 | | .05 |
| | Zone 6 | 6.29 | .25 | .21 | | .05 |
| | Zone 7 | 4.85 | .15 | .10 | | .05 |
| | Zone 8 | 4.60 | .15 | .10 | | .05 |
| | Zone 9 | 4.50 | .15 | .10 | | .05 |

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, 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, 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 | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LATHERS | | | | | |
| ZONE 1 | $ 9.68 | .20 | .30 | | .05 |
| ZONE 2 | 9.83 | .20 | .30 | | .05 |
| ZONE 3 | 10.08 | .20 | .30 | | .05 |
| ZONE 4 | 10.43 | .20 | .30 | | .05 |
| ZONE 5 | 10.57 | | | | .01 |
| ZONE 6 | 9.80 | | | | .01 |
| ZONE 7 | 10.585 | .30 | | | .01 |
| ZONE 8 | 11.35 | | | | |
| ZONE 9 | 9.05 | | | | .01 |

ZONE 1 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. which are 12.5 miles from center of New Orleans
ZONE 2 - That part of Jefferson, Orleans, Plaquemines, St. Bernard & St. Charles Pars. 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 Pars. 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, Lutcher & 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) Pars. outside 32.5 mile radius New Orleans Center



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 & Lutcher), St. Martin (only lower separted 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 Pars.
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 Pars
ZONE 7 - Allen, Beauregard, Calcasieu, Cameron, Evangeline (excluding Ville Platte & Mamou), Jefferson Davis & Vernon (west of Rt. 117 & north of Rt. 8) Pars.
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Lincoln, Natchitoches, Red River & Webster Pars.
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 | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LINE CONSTRUCTION | | | | | |
| ZONE 1 - GROUP 1 | $11.90 | .35 | 3%+.40 | | .03 |
| GROUP 2 | 75%JR | .35 | 3%+.40 | | .03 |
| GROUP 3 | 65%JR | .35 | 3%+.40 | | .03 |
| GROUP 4 | 45%JR | .35 | 3%+.40 | | .03 |
| GROUP 5 | 50%JR | .35 | 3%+.40 | | .03 |

GROUP 1 - Linemen
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derrick working hot 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 1½ yrs. service)
GROUP 5 - Groundmen (1½ yrs. service or over)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 2 | | | | | |
| Linemen, line equipment & line truck ops. | 13.04 | 5% | 8% | | 3/10% |
| Cable splicers | 13.29 | 5% | 8% | | 3/10% |
| ZONE 3 - Linemen, equipment ops. | 13.05 | .35 | 3%+.40 | | 1/10% |
| Cable splicers | 13.30 | .35 | 3%+.40 | | 1/10% |
| Groundmen | 11.05 | .35 | 3%+.40 | | 1/10% |
| ZONE 4 - Linemen, equip ops. | 12.30 | .35 | 3% | | |
| Cable splicers | 12.55 | .35 | 3% | | |
| Groundmen | 50%JR | .35 | 3% | | |
| ZONE 5 - Linemen & equip., ops. | 11.15 | | 3% | .30 | 1/2% |
| Cable splicers | 11.40 | | 3% | .30 | 1/2% |
| Groundmen | 60%JR | | 3% | .30 | 1/2% |
| ZONE 6 - Linemen & equip., ops. | 11.55 | .75 | 3% | | 1/2% |
| Cable splicers | 12.05 | .75 | 3% | | 1/2% |
| Groundman, 1st 6 months | 3.00 | .75 | 3% | | 1/2% |
| Groundman, 2nd 6 months | 3.70 | .75 | 3% | | 1/2 |
| Groundmen, after 1 year | 3.93 | .75 | 3% | | 1/2 |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 7 - Linemen; Operators | $12.05 | 1.15 | 3% | | 1% |
| Cable splicers | 12.55 | 1.15 | 3% | | 1% |
| Groundmen | 10.15 | 1.15 | 3% | | 1% |

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 Pars.
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Pars.
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, Madison, 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 Pars.
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 | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| MARBLE, TILE & TERRAZZO WORKERS & FINISHERS | | | | | |
| ZONE 1 - Marble setters | 11.00 | .50 | .35 | | .035 |
| Tile & terrazzo workers | 11.00 | .50 | .35 | | .035 |
| Marble, tile & terrazzo finishers | 6.75 | .25 | | | |
| ZONE 2 - Marble & terrazzo workers | 11.45 | .53 | .60 | | .05 |
| Tile setters | 8.50 | .48 | .60 | | .02 |
| ZONE 3 - Marble setters | 11.00 | | | | |
| Terrazzo workers | 9.25 | | | | |
| ZONE 4 - Marble, tile & terrazzo workers | 9.82 | | .25 | | |
| ZONE 5 - Marble, tile & terrazzo workers | 9.15 | .30 | | | |
| ZONE 6 - Marble, tile & terrazzo workers | 12.00 | | | | |
| Marble, tile & terrazzo finishers | 6.75 | .25 | | | |
| ZONE 7 - Tile setters | 10.25 | | | | |
| Tile finishers | 6.75 | .25 | | | |



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 & Talisheek & on a line due east from Talisheek 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 Pars.
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 7 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Pars.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS | | | | | |
| ZONE 1 - GROUP 1 | $10.985 | | .20 | | |
| GROUP 2 | 11.185 | | .20 | | |
| GROUP 3 | 11.33 | | .20 | | |
| GROUP 4 | 12.775 | | .20 | | |
| 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 | 9.00 | | | | |
| GROUP 2 | 9.50 | | | | |
| GROUP 3 | 10.00 | | | | |
| ZONE 6 - Painters, tape & float, vinyl & paperhangers | 9.55 | .40 | .30 | | .05 |
| ZONE 7 - GROUP 1 | 7.55 | | | | |
| GROUP 2 | 8.55 | | | | |
| GROUP 3 | 8.05 | | | | |

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

ZONE 3 - GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - 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
GROUP 3 - Industrial

ZONE 4 - GROUP 1 - Brush
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 5 - 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 7 - 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 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 Pars.

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



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 Winfield, excluding Winfield) Parishes

| | | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|---|
| | | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PLASTERERS - | ZONE 1 | 9.70 | | | | |
| | ZONE 2 | 9.30 | | | | .01 |
| | ZONE 3 | 10.07 | | | | |
| | ZONE 4 | 10.36 | | | | .01 |
| | ZONE 5 | 7.05 | .30 | .20 | | .03 |
| | ZONE 6 | 7.25 | | | | .01 |
| | ZONE 7 | 9.75 | | | 1.00 | |
| | ZONE 8 | 10.85 | | .25 | | |
| | ZONE 9 | 8.95 | | .30 | | |

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Pars.

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.

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 Pars.

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 Pars.

ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Pars.

ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Pars.

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 | $11.25 | .50 | .75 | | .08 |
| | ZONE 2 | 11.00 | .64 | .875 | | .06 |
| | ZONE 3 | 10.80 | .80 | .80 | | .10 |
| | ZONE 4 | 10.94 | .50 | .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 Pars.

ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern ½ of Par), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par), St. Martin (southern part of eastern ½ of Par), St. Mary, West Baton Rouge & West Feliciana Pars.

ZONE 3 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Evangeline, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches (south of Hwys. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco 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 Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens)

ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western ½ of Par.) Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Pars.

| | | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|---|
| | | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) | | | | | | |
| ZONE 1 - | GROUP 1 | 7.69 | .65 | .63 | | .05 |
| | GROUP 2 | 8.05 | .65 | .63 | | .05 |
| | GROUP 3 | 8.38 | .65 | .63 | | .05 |
| | GROUP 4 | 8.47 | .65 | .63 | | .05 |
| | GROUP 5 | 8.79 | .65 | .63 | | .05 |
| | GROUP 6 | 10.27 | .65 | .63 | | .05 |
| ZONES 2, 3 & 4 - | GROUP 1 | 7.97 | .65 | .48 | | .05 |
| | GROUP 2 | 8.34 | .65 | .48 | | .05 |
| | GROUP 3 | 8.73 | .65 | .48 | | .05 |
| | GROUP 4 | 8.79 | .65 | .48 | | .05 |
| | GROUP 5 | 9.16 | .65 | .48 | | .05 |
| | GROUP 6 | 10.77 | .65 | .48 | | .05 |



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| | | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|---|
| | | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE 5 - | GROUP 1 | $ 7.98 | .65 | .75 | | .05 |
| | GROUP 2 | 7.66 | .65 | .75 | | .05 |
| | GROUP 3 | 7.45 | .65 | .75 | | .05 |
| | GROUP 4 | 8.26 | .65 | .75 | | .05 |
| | GROUP 5 | 10.65 | .65 | .75 | | .05 |
| | GROUP 6 | 8.67 | .65 | .75 | | .05 |
| | GROUP 7 | 9.35 | .65 | .75 | | .05 |
| ZONE 6 - | GROUP 1 | 8.20 | .65 | .75 | | .05 |
| | GROUP 2 | 7.57 | .65 | .75 | | .05 |
| | GROUP 3 | 7.35 | .65 | .75 | | .05 |
| | GROUP 4 | 7.89 | .65 | .75 | | .05 |
| | GROUP 5 | 8.66 | .65 | .75 | | .05 |
| | GROUP 6 | 9.89 | .65 | .75 | | .05 |
| | GROUP 7 | 11.06 | .65 | .75 | | .05 |
| | GROUP 8 | 11.31 | .65 | .75 | | .05 |
| | GROUP 9 | 11.56 | .65 | .75 | | .05 |
| | GROUP 10 | 11.81 | .65 | .75 | | .05 |
| ZONE 7 - | GROUP 1 | 10.53 | .65 | .75 | | .05 |
| | GROUP 2 | 10.78 | .65 | .75 | | .05 |
| | GROUP 3 | 7.65 | .65 | .75 | | .05 |
| | GROUP 4 | 8.04 | .65 | .75 | | .05 |
| | GROUP 5 | 8.85 | .65 | .75 | | .05 |
| | GROUP 6 | 10.28 | .65 | .75 | | .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); dowell 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; concrete mixer, over 16-s; cranes; derricks; ditching or trenching machines; 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; hydrolifts; heavy duty mechanic; motor patrols; piledrivers; pump, concrete (6" & over); road pavers; rollers on asphalt or brick; scoopmobiles; scrapers; sideboom cats; shovels; tractorvators; 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 drill; 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; pump crete-6" & 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 - 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; pump crete; 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; traxcavator; 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; dragline; 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; hydrolift crane, hydrolift truck, yard crane, cherry picker, etc.; foundation, boring & reaming machine; cement stabilizer; trenching machine; asphalt spreader; traxcavator & 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 pump crete)

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.; bullfloats, concrete joining machines; concrete mixers, 16s & under; 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 tractors; pump, pump crete; 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 mahines & 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-s paving machines; cranes, derricks; draglines & clam shells; deck winches (2); gradealls; hi-ho & 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 Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of a line drawn from the city of Berwick to the Junction of Iberville-St. Landry Pars. 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 Pars

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the city of Berwick to the city of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (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 Pars. (west of a line drawn north from the city of Lutcher 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 Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (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 Hackley, thence southwesterly in a straight line to a point on the east bank of the Miss. River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream 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)

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION) | | | | | |
| GROUP 1 - ZONE 1 | 10.16 | .65 | .75 | | .05 |
| ZONE 2 | 8.31 | .25 | .39 | | .05 |
| ZONE 3 | 9.63 | .65 | .75 | | .05 |
| ZONE 4 | 9.81 | .65 | .75 | | .05 |
| ZONE 5 | 7.85 | .65 | .75 | | .05 |
| ZONE 6 | 7.35 | .65 | .75 | | .05 |
| ZONE 7 | 6.69 | .25 | .30 | | .05 |
| ZONE 8 | 6.14 | .25 | .30 | | .05 |
| ZONE 9 | 5.53 | .25 | .30 | | .05 |
| GROUP 2 - ZONE 1 | 10.41 | .65 | .75 | | .05 |
| ZONE 2 | 8.56 | .25 | .39 | | .05 |
| ZONE 3 | 9.88 | .65 | .75 | | .05 |
| ZONE 4 | 10.06 | .65 | .75 | | .05 |
| ZONE 5 | 8.10 | .65 | .75 | | .05 |
| ZONE 6 | 7.60 | .65 | .75 | | .05 |
| ZONE 7 | 6.94 | .25 | .30 | | .05 |
| ZONE 8 | 6.39 | .25 | .30 | | .05 |
| ZONE 9 | 5.78 | .25 | .30 | | .05 |
| GROUP 3 - ZONE 1 | 9.91 | .65 | .75 | | .05 |
| ZONE 2 | 8.06 | .25 | .39 | | .05 |
| ZONE 3 | 9.38 | .65 | .75 | | .05 |
| ZONE 4 | 9.56 | .65 | .75 | | .05 |
| ZONE 5 | 7.60 | .65 | .75 | | .05 |
| ZONE 6 | 7.10 | .65 | .75 | | .05 |
| ZONE 7 | 6.44 | .25 | .30 | | .05 |
| ZONE 8 | 5.89 | .25 | .30 | | .05 |
| ZONE 9 | 5.28 | .25 | .30 | | .05 |
| GROUP 4 - ZONE 1 | 8.66 | .65 | .75 | | .05 |
| ZONE 2 | 7.13 | .25 | .39 | | .05 |
| ZONE 3 | 8.33 | .65 | .75 | | .05 |
| ZONE 4 | 8.34 | .65 | .75 | | .05 |
| ZONE 5 | 6.63 | .65 | .75 | | .05 |
| ZONE 6 | 6.13 | .65 | .75 | | .05 |
| ZONE 7 | 5.58 | .25 | .30 | | .05 |
| ZONE 8 | 5.02 | .25 | .30 | | .05 |
| ZONE 9 | 4.46 | .25 | .30 | | .05 |
| GROUP 5 - ZONE 1 | 8.31 | .65 | .75 | | .05 |
| ZONE 2 | 6.39 | .25 | .39 | | .05 |
| ZONE 3 | 7.74 | .65 | .75 | | .05 |
| ZONE 4 | 7.73 | .65 | .75 | | .05 |
| ZONE 5 | 6.11 | .65 | .75 | | .05 |
| ZONE 6 | 5.61 | .65 | .75 | | .05 |
| ZONE 7 | 5.02 | .25 | .30 | | .05 |
| ZONE 8 | 4.48 | .25 | .30 | | .05 |
| ZONE 9 | 3.97 | .25 | .30 | | .05 |



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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP 6 - ZONE 1 | 7.41 | .65 | .75 | | .05 |
| ZONE 2 | 5.75 | .25 | .39 | | .05 |
| ZONE 3 | 6.83 | .65 | .75 | | .05 |
| ZONE 4 | 6.83 | .65 | .75 | | .05 |
| ZONE 5 | 5.28 | .65 | .75 | | .05 |
| ZONE 6 | 4.78 | .65 | .75 | | .05 |
| ZONE 7 | 4.86 | .25 | .30 | | .05 |
| ZONE 8 | 4.31 | .25 | .30 | | .05 |
| ZONE 9 | 3.81 | .25 | .30 | | .05 |
| GROUP 7 - ZONE 1 | 7.10 | .65 | .75 | | .05 |
| ZONE 2 | 5.46 | .25 | .39 | | .05 |
| ZONE 3 | 6.49 | .65 | .75 | | .05 |
| ZONE 4 | 6.49 | .65 | .75 | | .05 |
| ZONE 5 | 4.99 | .65 | .75 | | .05 |
| ZONE 6 | 4.49 | .65 | .75 | | .05 |
| ZONE 7 | 4.86 | .25 | .30 | | .05 |
| ZONE 8 | 4.31 | .25 | .30 | | .05 |
| ZONE 9 | 3.81 | .25 | .30 | | .05 |
| GROUP 8 - ZONE 1 | 8.46 | .65 | .75 | | .05 |
| ZONE 2 | 7.13 | .25 | .39 | | .05 |
| ZONE 3 | 8.13 | .65 | .75 | | .05 |
| ZONE 4 | 8.14 | .65 | .75 | | .05 |
| ZONE 5 | 6.48 | .65 | .75 | | .05 |
| ZONE 6 | 5.98 | .65 | .75 | | .05 |
| ZONE 7 | 5.58 | .25 | .30 | | .05 |
| ZONE 8 | 5.02 | .25 | .30 | | .05 |
| ZONE 9 | 4.46 | .25 | .30 | | .05 |
| GROUP 9 - ZONE 1 | 8.71 | .65 | .75 | | .05 |
| ZONE 2 | 7.38 | .25 | .39 | | .05 |
| ZONE 3 | 8.38 | .65 | .75 | | .05 |
| ZONE 4 | 8.39 | .65 | .75 | | .05 |
| ZONE 5 | 6.73 | .65 | .75 | | .05 |
| ZONE 6 | 6.23 | .65 | .75 | | .05 |
| ZONE 7 | 5.83 | .25 | .30 | | .05 |
| ZONE 8 | 5.27 | .25 | .30 | | .05 |
| ZONE 9 | 4.71 | .25 | .30 | | .05 |

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP 10 - ZONE 1 | $ 7.35 | .65 | .75 | | .05 |
| ZONE 2 | 5.71 | .25 | .39 | | .05 |
| ZONE 3 | 6.74 | .65 | .75 | | .05 |
| ZONE 4 | 6.74 | .65 | .75 | | .05 |
| ZONE 5 | 5.24 | .65 | .75 | | .05 |
| ZONE 6 | 4.74 | .65 | .75 | | .05 |
| ZONE 7 | 5.11 | .25 | .30 | | .05 |
| ZONE 8 | 4.56 | .25 | .30 | | .05 |
| ZONE 9 | 4.06 | .25 | .30 | | .05 |

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; scoopmobiles; 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; piledrivers; 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, 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



DECISION NO. LA79-4001

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS | | | | | |
| ZONE 1 - Roofers | $ 10.38 | | .20 | | |
| ZONE 2 - Roofers | 8.06 | .70 | .75 | .28 | .70 |
| ZONE 3 - Roofers | 9.06 | .35 | .60 | | .04 |
| ZONE 4 - Roofers | 8.70 | | .20 | | |
| Kettlemen | 7.55 | | .20 | | |
| ZONE 5 - Roofers | 9.60 | | .20 | | .04 |
| Kettlemen | 6.65 | | .20 | | .04 |

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & 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

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SHEET METAL WORKERS - ZONE 1 | 11.47 | .45 | .55 | | .13 |
| ZONE 2 | 11.00 | 3%+.60 | .91 | | .14 |
| ZONE 3 | 11.70 | .50 | .80 | | .12 |
| ZONE 4 | 10.34 | 3%+.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, Vermilion, 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

DECISION NO. LA79-4001

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| 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 | | | | |
| ZONE 2 - 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 | | | | |
| ZONE 4 - GROUP 1 | 8.00 | | | | |
| GROUP 2 | 8.30 | | | | |
| GROUP 3 | 8.45 | | | | |
| GROUP 4 | 8.65 | | | | |
| GROUP 5 | 8.80 | | | | |
| GROUP 6 | 8.60 | | | | |



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.

ZONE 3 - GROUP 1 - Pick-up drivers, spotters & dumpers of dirt, gravel, asphalt & rock
GROUP 2 - Stake bodies; flat beds (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 cartying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting material

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Pars.
ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

DECISION NO. LA79-4001

| | | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|---|
| | | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TRUCK DRIVERS (HIGHWAY CONSTRUCTION) | | | | | | |
| GROUP 1 - | ZONE 1 | $ 6.88 | .45 | | | |
| | ZONE 2 | 5.49 | | | | |
| | ZONE 3 | 7.06 | | | | |
| | ZONE 4 | 7.49 | | | | |
| | ZONE 5 | 6.17 | | | | |
| | ZONE 6 | 6.27 | | | | |
| | ZONE 7 | 4.45 | | | | |
| | ZONE 8 | 4.35 | | | | |
| | ZONE 9 | 4.25 | | | | |
| GROUP 2 - | ZONE 1 | 7.01 | .45 | | | |
| | ZONE 2 | 5.61 | | | | |
| | ZONE 3 | 7.16 | | | | |
| | ZONE 4 | 7.62 | | | | |
| | ZONE 5 | 6.30 | | | | |
| | ZONE 6 | 6.40 | | | | |
| | ZONE 7 | 4.56 | | | | |
| | ZONE 8 | 4.46 | | | | |
| | ZONE 9 | 4.36 | | | | |
| GROUP 3 - | ZONE 1 | 7.07 | .45 | | | |
| | ZONE 2 | 5.66 | | | | |
| | ZONE 3 | 7.39 | | | | |
| | ZONE 4 | 7.68 | | | | |
| | ZONE 5 | 6.36 | | | | |
| | ZONE 6 | 6.46 | | | | |
| | ZONE 7 | 4.61 | | | | |
| | ZONE 8 | 4.51 | | | | |
| | ZONE 9 | 4.41 | | | | |
| GROUP 4 - | ZONE 1 | 7.15 | .45 | | | |
| | ZONE 2 | 5.73 | | | | |
| | ZONE 3 | 7.60 | | | | |
| | ZONE 4 | 7.75 | | | | |
| | ZONE 5 | 6.43 | | | | |
| | ZONE 6 | 6.53 | | | | |
| | ZONE 7 | 4.67 | | | | |
| | ZONE 8 | 4.57 | | | | |
| | ZONE 9 | 4.47 | | | | |
| GROUP 5 - | ZONE 1 | 7.34 | .45 | | | |
| | ZONE 2 | 5.89 | | | | |
| | ZONE 3 | 8.02 | | | | |
| | ZONE 4 | 7.94 | | | | |
| | ZONE 5 | 6.63 | | | | |
| | ZONE 6 | 6.72 | | | | |
| | ZONE 7 | 4.83 | | | | |
| | ZONE 8 | 4.73 | | | | |
| | ZONE 9 | 4.63 | | | | |



GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper
GROUP 2 - 1½ 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, 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 (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.

SUPERSEDEAS DECISION

STATE: Louisiana
DECISION NO.: LA79-4002
PARISHES: Bossier, Caddo & Calcasieu
DATE: Date of Publication
Supersedes Decision No. LA78-4113 dated October 13, 1978, in 43 FR 47429.
DESCRIPTION OF WORK: Residential construction consisting of single family homes & 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: | | | | | |
| Bossier & Caddo Parishes | $10.83 | .50 | .76 | | .03 |
| Calcasieu Parish | 11.47 | .525 | .90 | | .04 |
| BOILERMAKERS | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS & STONEMASONS: | | | | | |
| Bossier & Caddo Parishes | 10.25 | .40 | .45 | | |
| Calcasieu Parish | 11.45 | .53 | .60 | | .05 |
| CARPENTERS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| Carpenters | 9.85 | .45 | .35 | | .04 |
| Millwrights | 10.60 | .45 | .35 | | .04 |
| Piledrivermen | 10.10 | .45 | .35 | | .04 |
| Calcasieu Parish: | | | | | |
| Carpenters & piledrivermen | 10.35 | .60 | .33 | | .07 |
| Millwrights | 12.05 | | | | .07 |
| CEMENT MASONS: | | | | | |
| Bossier & Caddo Parishes | 9.30 | .35 | | | |
| Calcasieu Parish | 9.45 | | | | |
| ELECTRICIANS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| Electricians | 12.05 | 1.15 | 3% | | 1% |
| Cable splicers | 12.55 | 1.15 | 3% | | 1% |
| Calcasieu Parish: | | | | | |
| New & old single or multiple family residences & apartment complexes, not to exceed 12 units, 2 story walk-up | 6.25 | .35 | 3%+.20 | | 3/10% |
| Other work: | | | | | |
| Electricians | 13.05 | .35 | 3%+.40 | | 1/10% |
| Cable splicers | 13.30 | .35 | 3%+.40 | | 1/10% |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| Mechanics | 9.595 | .745 | .35 | 4%+a+b | .02 |
| Helpers | 70%JR | .745 | .35 | 4%+a+b | .02 |
| Helpers (Probationary) | 50%JR | | | | |
| Calcasieu Parish: | | | | | |
| Mechanics | 9.76 | .545 | .35 | 4%+a+b | .02 |
| Helpers | 70%JR | .545 | .35 | 4%+a+b | .02 |
| Helpers (Probationary) | 50%JR | | | | |
| GLAZIERS: | | | | | |
| Bossier & Caddo Parishes | 8.68 | | .30 | | .04 |
| Calcasieu Parish | 10.15 | | | | .02 |
| IRONWORKERS: | | | | | |
| Bossier & Caddo Parishes | 11.05 | .45 | .90 | | .06 |
| Calcasieu Parish | 11.10 | .35 | .60 | | .05 |



DECISION NO. LA79-4002

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| GROUP 1 - Building laborers | $ 6.65 | .25 | .15 | | .05 |
| GROUP 2 - Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers | 6.75 | .25 | .15 | | .05 |
| GROUP 3 - Mortar mixers | 6.80 | .25 | .15 | | .05 |
| GROUP 4 - Air jacks, vibrators; sewer pipe layers & wipers | 6.85 | .25 | .15 | | .05 |
| Calcasieu Parish: | | | | | |
| GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners | 7.95 | .25 | .15 | | .05 |
| GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equipment | 8.05 | .25 | .15 | | .05 |
| GROUP 3 - Mortar mixers | 8.10 | .25 | .15 | | .05 |
| GROUP 4 - Jackhammer operator | 8.20 | .25 | .15 | | .05 |
| GROUP 5 - Blasterers | 8.91 | .25 | .15 | | .05 |
| GROUP 6 - Blaster helpers; concrete cutters behind paving machines & puddlers; form setters & lines asphalt worker | 8.47 | .25 | .15 | | .05 |
| GROUP 7 - Wipe joints, laying pipe & tile from pumpcrete | 8.31 | .25 | .15 | | .05 |
| GROUP 8 - Interior or closed tanks & vessels manually | 8.00 | .25 | .15 | | .05 |
| LATHERS: | | | | | |
| Bossier & Caddo Parishes | 11.35 | | | | |
| Calcasieu Parish | 10.585 | .30 | | | .01 |
| MARBLE SETTERS: | | | | | |
| Bossier & Caddo Parishes | 9.15 | .30 | | | |
| Calcasieu Parish | 11.45 | .53 | .60 | | .05 |
| PAINTERS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| Painters, tape & float, vinyl & paperhangers | 9.55 | .40 | .30 | | .05 |
| Calcasieu Parish: | | | | | |
| GROUP 1 - Brush, roller, buffer | 10.985 | | .20 | | |
| GROUP 2 - Paperhangers, taping & floating | 11.185 | | .20 | | |
| GROUP 3 - Spray, sandblasting | 11.33 | | .20 | | |
| PLASTERERS: | | | | | |
| Bossier & Caddo Parishes | 9.75 | | | 1.00 | |
| Calcasieu Parish | 10.07 | | | | |
| PLUMBERS & PIPEFITTERS: | | | | | |
| Bossier & Caddo Parishes | 10.94 | .50 | .60 | .95 | .09 |
| Calcasieu Parish | 11.97 | .67 | .72 | | .08 |
| ROOFERS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| Roofers | 9.60 | | .20 | | .04 |
| Kettlemen | 6.65 | | .20 | | .04 |

DECISION NO. LA79-4002

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS (CONT'D): | | | | | |
| Calcasieu Parish: | | | | | |
| Roofers | $10.38 | | .20 | | |
| SHEET METAL WORKERS: | | | | | |
| Bossier & Caddo Parishes | 6.59 | 3%+.40 | | | .12 |
| Calcasieu Parish | 11.47 | .45 | .55 | | .13 |
| SOFT FLOOR LAYERS: | | | | | |
| Bossier & Caddo Parishes | 9.85 | .45 | .35 | | .04 |
| Calcasieu Parish | 10.35 | .60 | .33 | | .07 |
| SPRINKLER FITTERS | 10.80 | .75 | 1.05 | | .08 |
| TERRAZZO WORKERS: | | | | | |
| Bossier & Caddo Parishes | 9.15 | .30 | | | |
| Calcasieu Parish | 11.45 | .53 | .60 | | .05 |
| TILE SETTERS: | | | | | |
| Bossier & Caddo Parishes | 9.15 | .30 | | | |
| Calcasieu Parish | 8.50 | .48 | .60 | | .02 |
| TRUCK DRIVERS: | | | | | |
| Bossier & Caddo Parishes: | | | | | |
| GROUP 1 - Pick-ups, spotters & dumpers | 5.47 | | | | |
| GROUP 2 - Stake bodies; flat beds (all sizes) | 5.55 | | | | |
| GROUP 3 - Single axle dumps & water trucks; transit mix up to & including 3 yds. | 5.80 | | | | |
| GROUP 4 - Tandem axle, dump, batch & water trucks over 3 tons, pick-ups with trailer | 5.95 | | | | |
| GROUP 5 - Mississippi wagons, floats, tractor trailers; rubber tired tractors & wobble wheels | 6.10 | | | | |
| GROUP 6 - Euclids, lowboys, Dempsey dumpsters, Koehring dumps, 5 axle trucks, transit mix over 3 yds. | 6.30 | | | | |
| Calcasieu Parish: | | | | | |
| GROUP 1 - Pick-ups | 4.91 | | | | |
| GROUP 2 - Stake bodies(all sizes) | 5.34 | | | | |
| GROUP 3 - Trucks trailer & dump over 8 yds.; Mixers on trucks over 3 yds.; Mississippi wagon & Koehring; dumpsters & similar dirt moving equipment (up to & including 8 yds.) | 5.55 | | | | |
| GROUP 4 - Mixers on trucks up to & including 3 yds. | 5.35 | | | | |
| GROUP 5 - Winch trucks | 5.45 | | | | |
| GROUP 6 - Dump trucks | 5.37 | | | | |
| GROUP 7 - Mississippi wagons & Koehring; dumpsters & similar dirt moving equipment over 8 yds. | 5.76 | | | | |



DECISION NO. LA79-4002

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 - A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Calcasieu Parish: | | | | | |
| GROUP 1 | $ 7.98 | .65 | .75 | | .05 |
| GROUP 2 | 7.66 | .65 | .75 | | .05 |
| GROUP 3 | 7.45 | .65 | .75 | | .05 |
| GROUP 4 | 8.26 | .65 | .75 | | .05 |
| GROUP 5 | 10.65 | .65 | .75 | | .05 |
| GROUP 6 | 8.67 | .65 | .75 | | .05 |
| GROUP 7 | 9.35 | .65 | .75 | | .05 |

GROUP 1 - Scale Operator; Oiler-Driver on Motor Crane; Batch Plant Operator
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 Drill; 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 drum or over); Locomotive (all types); Mechanic; Mixer Plant Operator-Central Mix; Motor Patrols; Pile-drivers; Pull Cat; Pump Crete-6" and over discharge; Push Cat; Road Pavers; Rollers (Plant Mix Asphalt); Scrapers; Shovels; Sideboams; Unit Operator; Welder, Journeyman; Well Point System; Whirleys; Winch Cats (Cat D-4 & over); Winch Truck with A-Frame (5 ton & over); Work Boats-requiring licensed operator
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-1drum (under 4 stories on buildings); Hoist-1 drum (40 feet or under on structures other than buildings); Kolm Buff Machines; Mixers (1 sack & under); Motorized street sweepers self-propelled; Pump (3" & over); Test Pump-Internal combustion engine powered; Water Blast Pump
GROUP 7 - Asphalt Plant Operator; Boom Trucks; Bull Floats; Concrete Spreader; Farm Type Front End Loaders; Finishing Machines (Vibrator, riding type); Roller (other than plant mix asphalt); Straddle Buggies; Winch Truck with A-Frame (under 5 tons); Work Boats-not requiring licensed operator

SUPERSEDEAS DECISION

STATE: New Mexico
COUNTY: Statewide
DECISION NO.: NM79-4021
DATE: Date of Publication
Supersedeas Decision No. NM78-4076 dated August 11, 1978 in 43 FR 35853
DESCRIPTION OF WORK: BUILDING AND HEAVY CONSTRUCTION (also including RESIDENTIAL CONSTRUCTION in Santa Fe, Bernalillo, Rio Arriba, Taos, Sandoval and Valencia Counties).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BUILDING & HEAVY CONSTRUCTION | | | | | |
| ASBESTOS WORKERS: | | | | | |
| (Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Counties) | $12.36 | .50 | 1.37a | | .06 |
| Union, Harding, Lea, Roosevelt, Curry and Quay Counties | 10.00 | .65 | .55 | | .07 |
| BOILERMAKERS | 10.165 | 1.075 | 1.00 | .50 | .02 |
| BRICKLAYERS-STONEMASONS: | | | | | |
| Zone I-A | 10.56 | .67 | .40 | | .10 |
| Zone I-B | 11.81 | .67 | .40 | | .10 |
| Zone I-C | 12.56 | .67 | .40 | | .10 |
| Zone II | 10.61 | .67 | .50 | | .10 |
| Zone III | 11.61 | .67 | .50 | | .10 |
| Zone IV | 10.76 | .67 | .50 | | .10 |
| Zone V | 11.76 | .67 | .50 | | .10 |
| Zone VI | 10.01 | .67 | .40 | | .10 |
| Zone VII | 10.76 | .67 | .40 | | .10 |
| Zone VIII | 11.44 | .67 | .30 | | .10 |
| Zone IX | 10.19 | .67 | .30 | | .10 |

BRICKLAYERS' ZONE DEFINITIONS

ZONE I - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo and Los Alamos Counties
From basing point of Albuquerque Main Post Office:
Zone I-A - 0 to 25 road miles
Zone I-B - 25 to 50 road miles
Zone I-C - Over 50 road miles
ZONE II - Curry, and Roosevelt Counties
ZONE III - DeBaca, Guadalupe and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VI - Lee and Eddy Counties
ZONE VII - Otero Counties
ZONE VIII - Luna and Grant Counties, communities of Silver City, Bayard, Central, Hurley and new town site of Tyrone; Hidalgo and Sierra Counties
ZONE IX - Dona Ana County



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BUILDING AND HEAVY CONSTRUCTION | | | | | |
| CARPENTERS: | | | | | |
| Dwelling houses & apartments not to exceed two stories in height: | | | | | |
| Zone I-A | 7.50 | 1.00 | 1.10 | .65 | .20 |
| Zone I-B | 8.75 | 1.00 | 1.10 | .65 | .20 |
| Zone I-C | 9.50 | 1.00 | 1.10 | .65 | .20 |
| General Building, Heavy and Reaidential Construction (Dwelling houses and apartments over two stories in height): | | | | | |
| Zone 2-A | 10.45 | 1.00 | 1.05 | | .20 |
| Zone 2-B | 11.95 | 1.00 | 1.05 | | .20 |
| Zone 2-C | 12.45 | 1.00 | 1.05 | | .20 |

CARPENTERS' ZONE DEFINITIONS

CARPENTERS (STATEWIDE) - From nearest basing points of the following cities of Towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, and Tucumcari:
ZONE I - Dwelling houses & apartments not to exceed two stories in height:
Zone I-A - 0 - 15 road miles from nearest basing point
Zone I-B - 15 to 35 road miles from nearest basing point
Zone I-C - Over 35 road miles from nearest basing point
ZONE II - General Building & Heavy Construction and Residential Construction (Dwelling Houses and Apartments over two stories in height):
Zone 2-A - 0 - 15 road miles from nearest basing point
Zone 2-B - 15 to 35 road miles from nearest basing point
Zone 2-C - Over 35 road miles from nearest basing point

| | | | | | |
|---|---|---|---|---|---|
| MILLWRIGHTS & PILEDRIVERMEN: | | | | | |
| Zone 1 | 11.20 | 1.00 | 1.05 | | .20 |
| Zone 2 | 12.45 | 1.00 | 1.05 | | .20 |
| Zone 3 | 13.20 | 1.00 | 1.05 | | .20 |

MILLWRIGHTS & PILEDRIVERMEN ZONE DEFINITIONS

BASING POINT - FROM ALBUQUERQUE CITY LIMITS:
Zone 1 - 0 to 15 road miles from basing point
Zone 2 - 15 to 35 road miles from basing point
Zone 3 - Over 35 road miles from basing point

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CEMENT MASONS: | | | | | |
| Area I | 8.77 | .57 | .50 | | |
| Area II | | | | | |
| Zone 1 | 8.77 | .57 | .50 | | |
| Zone 2 | 8.77 | .57 | .50 | | |
| Zone 3 | 9.02 | .57 | .50 | | |
| Cement masons (Residential) | 5.35 | .57 | .50 | | |
| Cement masons (Heavy) | 9.22 | .67 | .55 | | .20 |
| CEMENT MASONS: | | | | | |
| Composition & Machine Operators | | | | | |
| Area I | 9.02 | .57 | .50 | | |
| Area II | | | | | |
| Zone 1 | 9.02 | .57 | .50 | | |
| Zone 2 | 8.92 | .57 | .45 | | |
| Zone 3 | 9.27 | .57 | .45 | | |

CEMENT MASONS AREA DEFINITIONS

AREA I - Statewide except Farmington, San Juan County

AREA II - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35 miles and over from Farmington City Hall

| | | | | | |
|---|---|---|---|---|---|
| ELECTRICIANS: | | | | | |
| Zone I | | | | | |
| 1-A | 11.35 | .60 | 3%+.70 | | ½% |
| 1-B | 12.14 | .60 | 3%+.70 | | ½% |
| 1-C | 12.83 | .60 | 3%+.70 | | ½% |
| 1-D | 13.62 | .60 | 3%+.70 | | ½% |
| Zone II | 12.83 | .60 | 3%+.70 | | ½% |
| Zone III | | | | | |
| 3-A | 9.60 | .30 | 3% | | 1/10% |
| 3-B | 11.05 | .30 | 3% | | 1/10% |
| Zone IV | | | | | |
| 4-A | 10.95 | .60 | 3% | | .01 |
| 4-B | 11.30 | .60 | 3% | | .01 |
| 4-C | 11.45 | .60 | 3% | | .01 |
| 4-D | 11.70 | .60 | 3% | | .01 |
| Zone V | 5.80 | .30 | 1% | | ½% |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CABLE SPLICERS: | | | | | |
| Zone I | | | | | |
| 1-A | 11.99 | .60 | 3%+.70 | | ½% |
| 1-B | 12.75 | .60 | 3%+.70 | | ½% |
| 1-C | 13.41 | .60 | 3%+.70 | | ½% |
| 1-D | 14.17 | .60 | 3%+.70 | | ½% |
| Zone II | 13.97 | .60 | 3%+.70 | | ½% |
| Zone III | | | | | |
| 3-A | 9.85 | .30 | 3% | | 1/10% |
| 3-B | 11.30 | .30 | 3% | | 1/10% |
| Zone IV | | | | | |
| 4-A | 11.30 | .60 | 3% | | .01 |
| 4-B | 11.65 | .60 | 3% | | .01 |
| 4-C | 11.80 | .60 | 3% | | .01 |
| 4-D | 12.05 | .60 | 3% | | .01 |

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I
Area 1 - Bernalillo, Santa Fe, Torrance, DeBaca, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln and Roosevelt Counties
Area 1-A - From nearest basing point cities, towns and mileage from main post office in the following towns:
Albuquerque - 15 miles from main post office
Santa Fe - 15 miles from main post office
Las Vegas - 8 miles from main post office
Farmington - 8 miles from main post office
Raton - 6 miles from main post office
Tucumari - 6 miles from main post office
Aztec - 6 miles from main post office
Roswell - 12 miles from main post office
Ruidoso - 12 miles from main post office
Portales - 12 miles from main post office
Carrizozo - 12 miles from main post office
Clovis - 12 miles from main post office
Gallup - 10 miles from main post office
*Pojoaque - 2 miles from main post office
*All areas adjacent to Pojoaque that are over two (2) miles distant from the main post office in that town will be zoned out of Santa Fe.

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS CONTD:

ZONE I CONTD:
Area 1-B - extending up to 20 miles beyond Area 1-A

Area 1-C - extending uo to 30 miles from Area !-A

Area 1-D - anything beyond 30 miles from Area 1-A
ZONE II - Los Alamos County
ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the post office in Las Cruces and within a 5 mile radius from the post office in Alamogordo.
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)
ZONE IV - Eddy and Lea Counties - the following zones shall be designated from the main post office in Artesia, Carlsbad, Hobbs and Lovington:
Zone 4-A - 0 - 12 miles from main post office
Zone 4-B - 12 - 22 miles from main post office
Zone 4-C - 22 - 40 miles beyond main post office
Zone 4-D - 40 miles and beyond main post office
ZONE V - Single or multiple, family dwelling or apartments up to and including 26 units under one roof not exceeding two stories - Bernalillo, Santa Fe, Taos, Rio Arriba, Sandoval, Valencia and San Juan Counties, but not on the Navajo Indian Reservation

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Counties: | | | | | |
| Elevator constructors | 10.96 | .545 | .35 | 3%+b+c | .02 |
| Elevator constructors helpers | 70%JR | .545 | .35 | 3%+b+c | .02 |
| Elevator constructors, prob. | 50%JR | | | | |
| Chaves, Hidalgo, Dona Ana, Eddy, Grant, Lea, Luna, Otero and Sierra Counties: | | | | | |
| Elevator constructors | 8.57 | .745 | .35 | 4%+b+c | .02 |
| Elevator constructors helper | 70%JR | .745 | .35 | 4%+b+c | .02 |
| Elevator constructors, prob. | 50%JR | | | | |
| GLAZIERS: | | | | | |
| Zone I | 7.29 | .30 | .10 | | .02 |
| Zone II | 9.39 | .50 | .20 | | .04 |

GLAZIERS' ZONE DEFINITIONS

GLAZIERS
ZONE I - Dona Ana, Luna, Otero Counties
Zone II - Statewide, except Dona Ana, Luna and Otero Counties



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| IRONWORKERS: | | | | | |
| ZONE I - Area I | 11.15 | .65 | 1.25 | | .18 |
| ZONE I - Area II | | | | | |
| Zone 1 | 11.15 | .65 | 1.25 | | .18 |
| Zone 2 | 12.40 | .65 | 1.25 | | .18 |
| Zone 3 | 13.15 | .65 | 1.25 | | .18 |
| Zone 4 | 13.40 | .65 | 1.25 | | .18 |
| ZONE II | 10.30 | .55 | 1.15 | | .15 |
| ZONE III | 11.30 | .55 | 1.15 | | .15 |

IRONWORKERS ZONE DEFINITIONS

ZONE I
AREA I - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance, and Valencia Counties

ZONE I
AREA II - Farmington, San Juan County
Zone 1 - Shall extend a distance of 6 road miles inclusive beyond the City Hall
Zone 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of zone 1
Zone 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of zone 2
Zone 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of zone 3
All areas not within Zones 1, 2, 3, and 4 shall revert to the $15.00 per day subsistence rate.

ZONE II - Dona Ana, county with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County, Eddy County except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 180, east of Carlsbad.

ZONE III - Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero and Sierra Counties; also Potash Basin, White Sands and McGregor Missile Ranges.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS: BUILDING | | | | | |
| Group I | 6.61 | .53 | .67 | | .05 |
| Group II | 6.91 | .53 | .67 | | .05 |
| Group III | 6.91 | .53 | .67 | | .05 |
| Group IV | 7.21 | .53 | .67 | | .05 |
| Group V | 7.36 | .53 | .67 | | .05 |

BUILDING LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Unskilled; building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators
GROUP II - Semi-skilled; air and power tool operator, asphalt rakers, demolition, gunite, rebound men, fog machine operator, power buggy operators, rodmen; sand blasterers (pot men), window washers, wagon, core and diamond drillers tenders; outside scaler, grade setter
GROUP III - Wagon core, diamond drillers
GROUP IV - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzlemen
GROUP V - Powdermen and blasterers

LABORERS (HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK)
ZONE I - Statewide including 15 miles from Farmington Hall
ZONE II - 15 to 35 miles from Farmington Hall
ZONE III - 35 miles and over from Farmington Hall

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS (HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK | | | | | |
| ZONE I | | | | | |
| Group 1 | 7.11 | .53 | .77 | | .05 |
| Group 2 | 7.41 | .53 | .77 | | .05 |
| Group 3 | 7.51 | .53 | .77 | | .05 |
| Group 4 | 7.71 | .53 | .77 | | .05 |
| Group 5 | 7.86 | .53 | .77 | | .05 |
| ZONE II | | | | | |
| Group 1 | 7.36 | .53 | .77 | | .05 |
| Group 2 | 7.71 | .53 | .77 | | .05 |
| Group 3 | 7.76 | .53 | .77 | | .05 |
| Group 4 | 7.96 | .53 | .77 | | .05 |
| Group 5 | 8.11 | .53 | .77 | | .05 |
| ZONE III | | | | | |
| Group 1 | 7.86 | .53 | .77 | | .05 |
| Group 2 | 8.16 | .53 | .77 | | .05 |
| Group 3 | 8.26 | .53 | .77 | | .05 |
| Group 4 | 8.46 | .53 | .77 | | .05 |
| Group 5 | 8.61 | .53 | .77 | | .05 |



LABORERS (HEAVY CONSTRUCTION, SITE PREPARATION AND DIRT WORK) CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Construction and general laborers, carpenter tenders, concrete workers, stakedrivers, concrete buggy operators
GROUP II - Semi-skilled - Air and power tool operators, asphalt rakers, cutting torch operators, demolition, gunite rebound men, rod and chainmen, grade setters, power buggy operators, sand blasters (pot men), nozzlemen, wagon core and diamond drillers' tenders, outside scalers, fog machine operators
GROUP III - Wagon core, diamond drillers
GROUP IV - Miscellaneous - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzlemen
GROUP V - Powdermen and blasters

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LABORERS RESIDENTIAL CONSTRUCTION | | | | | |
| Group I | 5.02 | .53 | .67 | | .05 |
| Group II | 5.32 | .53 | .67 | | .05 |
| Group III | 5.42 | .53 | .67 | | .05 |
| Group IV | 5.62 | .53 | .67 | | .05 |

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators, hand
GROUP II - Semi-skilled - air and power tool operator, asphalt rakers, demolition, gunnite rebound men, fog machine operator, power buggy operator, rodmen, sand blasterers (pot men), window washers, wagon, core and diamond drillers, tender outside
GROUP III - Wagon core, diamond drillers
GROUP IV - Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunnite nozzlemen, pipelayer, pumpcrete nozzlemen

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LATHERS: | | | | | |
| Zone I | 10.84 | .67 | | | .06 |
| Zone II | 11.66 | .67 | | | .01 |
| Zone III | 8.98 | | | | .01 |

LATHERS' ZONE DEFINITIONS

ZONE I - Catron, Grant, Bernalillo, Roosevelt, Union, Sandoval, San Juan, Socorro, Torrance and Valencia Counties
ZONE II - Colfax, Los Alamos, Mora, Rio Arriba, San Miguel, Santa Fe and Taos Counties
ZONE III - Dona Ana and Otero Counties

COMMERCIAL AND INDUSTRIAL LINE WORK

Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico.

ZONE I
Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles
Santa Fe - 10 miles
Las Vegas - 8 miles
Farmington - 6 miles
Raton - 6 miles
Tucumcari - 6 miles
Aztec - 6 miles
Roswell - 12 miles
Ruidoso - 12 miles
Portales - 12 miles
Carrisoso - 12 miles
Clovis - 12 miles
Gallup - 12 miles
*Pojoaque - 2 miles

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond zone 1

ZONE III - Extending up to 30 miles beyond zone 1

ZONE IV - Anything beyond 30 miles from zone 1

| COMMERCIAL & INDUSTRIAL | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LINE WORK | | | | | |
| ZONE I | | | | | |
| Linemen - Technicians | 11.75 | .60 | 3%+.70 | | ½% |
| Cable splicers | 12.93 | .60 | 3%+.70 | | ½% |
| Equipment Operator (includes Helicopter op.) | 11.16 | .60 | 3%+.70 | | ½% |
| Equipment Mechanic (includes Helicopter mechanic) | 10.22 | .60 | 3%+.70 | | ½% |
| Powderman | 10.22 | .60 | 3%+.70 | | ½% |
| Groundman & Jackhammer Oprs: | | | | | |
| 1st 6 months | 6.35 | .60 | 3%+.70 | | ½% |
| 2nd 6 months | 7.05 | .60 | 3%+.70 | | ½% |
| Experienced | 8.34 | .60 | 3%+.70 | | ½% |



| COMMERCIAL & INDUSTRIAL WORK CONTD: | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE II | | | | | |
| Linemen - Technicians | 12.57 | .60 | 3%+.70 | | ½% |
| Cable splicers | 13.75 | .60 | 3%+.70 | | ½% |
| Equipment Operator (includes Helicopter Op.) | 11.98 | .60 | 3%+.70 | | ½% |
| Equipment Mechanic (includes Helicopter mechanic) | 11.04 | .60 | 3%+.70 | | ½% |
| Powderman | 11.04 | .60 | 3%+.70 | | ½% |
| Groundman & Jackhammer Oprs: | | | | | |
| 1st 6 months | 7.17 | .60 | 3%+.70 | | ½% |
| 2nd 6 months | 7.87 | .60 | 3%+.70 | | ½% |
| Experienced | 9.16 | .60 | 3%+.70 | | ½% |
| ZONE III | | | | | |
| Linemen - Technicians | 13.28 | .60 | 3%+.70 | | ½% |
| Cable splicers | 14.46 | .60 | 3%+.70 | | ½% |
| Equipment Operator (includes helicopter op.) | 12.69 | .60 | 3%+.70 | | ½% |
| Equipment mechanic (includes helicopter mechanic) | 11.75 | .60 | 3%+.70 | | ½% |
| Powderman | 11.75 | .60 | 3%+.70 | | ½% |
| Groundman & Jackhammer Oprs: | | | | | |
| 1st 6 months | 7.88 | .60 | 3%+.70 | | ½% |
| 2nd 6 months | 8.58 | .60 | 3%+.70 | | ½% |
| Experienced | 9.87 | .60 | 3%+.70 | | ½% |
| ZONE IV | | | | | |
| Linemen - Technicians | 14.10 | .60 | 3%+.70 | | ½% |
| Cable splicers | 15.28 | .60 | 3%+.70 | | ½% |
| Equipment Operator (includes helicopter op.) | 13.51 | .60 | 3%+.70 | | ½% |
| Equipment Mechanic (includes helicopter mechanic) | 12.57 | .60 | 3%+.70 | | ½% |
| Powderman | 12.57 | .60 | 3%+.70 | | ½% |
| Groundman & Jackhammer Oprs: | | | | | |
| 1st 6 months | 8.70 | .60 | 3%+.70 | | ½% |
| 2nd 6 months | 9.40 | .60 | 3%+.70 | | ½% |
| Experienced | 10.69 | .60 | 3%+.70 | | ½% |
| Los Alamos County - Use Zone III Rates | | | | | |

COMMERCIAL AND INDUSTRIAL LINE WORK

Applies to switching stations and substations adjacent to power plants in Zone 1 and zone 2 in Luna, Dona Ana, Otero and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico.

ZONE I

The area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area with a ten mile radius from the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico.

ZONE II

All other areas of the jurisdiction except those specified in zone 1

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE I | | | | | |
| Linemen - technicians | 9.60 | .30 | 3% | | ½% |
| Cable splicers | 9.85 | .30 | 3% | | ½% |
| Equipment operator (includes helicopter opr.) | 9.12 | .30 | 3% | | ½% |
| Equipment mechanic (includes helicopter mechanic) | 8.40 | .30 | 3% | | ½% |
| Powderman | 8.40 | .30 | 3% | | ½% |
| Groundman & Jackhammer Oprs: | | | | | |
| 1st 6 months | 5.18 | .30 | 3% | | ½% |
| 2nd 6 months | 5.86 | .30 | 3% | | ½% |
| Experienced | 6.82 | .30 | 3% | | ½% |
| ZONE II | | | | | |
| Linemen - technicians | 11.05 | .30 | 3% | | ½% |
| Cable splicers | 11.30 | .30 | 3% | | ½% |
| Equipment operator (includes helicopter opr.) | 10.50 | .30 | 3% | | ½% |
| Equipment mechanic (includes helicopter mechanic | 9.67 | .30 | 3% | | ½% |
| Powderman | 9.67 | .30 | 3% | | ½% |
| Groundman & Jackhammer Oprs: | | | | | |
| 1st 6 months | 5.97 | .30 | 3% | | ½% |
| 2nd 6 months | 6.74 | .30 | 3% | | ½% |
| Experienced | 7.85 | .30 | 3% | | ½% |

COMMERCIAL AND INDUSTRIAL LINE WORK

Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs and Lovington.

Zone A - 0 - 12 miles
Zone B - 12 - 22 miles
Zone C - 22 to 40 miles
Zone D - 40 miles and beyond



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE A | | | | | |
| Linemen - technician | 10.95 | .60 | 3% | | ½% |
| Cable splicers | 11.30 | .60 | 3% | | ½% |
| Equipment operator (includes helicopter opr.) | 10.36 | .60 | 3% | | ½% |
| Eqiuipment mechanic (includes helicopter mechanic) | 9.58 | .60 | 3% | | ½% |
| Powderman | 9.58 | .60 | 3% | | ½% |
| Groundman & Jackhammer Oprs: | | | | | |
| 1st 6 months | 5.91 | .60 | 3% | | ½% |
| 2nd 6 months | 6.68 | .60 | 3% | | ½% |
| Experienced | 7.77 | .60 | 3% | | ½% |
| ZONE B | | | | | |
| Linemen - technician | 11.30 | .60 | 3% | | ½% |
| Cable splicers | 11.65 | .60 | 3% | | ½% |
| Equipment operator (includes helicopter opr.) | 10.71 | .60 | 3% | | ½% |
| Equipment mechanic (includes helicopter mechanic) | 9.93 | .60 | 3% | | ½% |
| Powderman | 9.93 | .60 | 3% | | ½% |
| Groundman & Jackhammer Oprs: | | | | | |
| 1st 6 months | 6.26 | .60 | 3% | | ½% |
| 2nd 6 months | 7.03 | .60 | 3% | | ½% |
| Experienced | 8.12 | .60 | 3% | | ½% |
| ZONE C | | | | | |
| Linemen - technician | 11.45 | .60 | 3% | | ½% |
| Cable splicers | 11.80 | .60 | 3% | | ½% |
| Equipment operator (includes helicopter opr.) | 10.86 | .60 | 3% | | ½% |
| Equipment mechanic (includes helicopter mechanic) | 10.08 | .60 | 3% | | ½% |
| Powderman | 10.08 | .60 | 3% | | ½% |
| Groundman & Jackhammer Oprs: | | | | | |
| 1st 6 months | 6.41 | .60 | 3% | | ½% |
| 2nd 6 months | 7.18 | .60 | 3% | | ½% |
| Experienced | 8.27 | .60 | 3% | | ½% |

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ZONE D | | | | | |
| Linemen - technician | 11.70 | .60 | 3% | | ½% |
| Cable splicers | 12.05 | .60 | 3% | | ½% |
| Equipment operator (includes helicopter opr.) | 11.11 | .60 | 3% | | ½% |
| Equipment mechanic (includes helicopter mechanic) | 10.33 | .60 | 3% | | ½% |
| Powderman | 10.33 | .60 | 3% | | ½% |
| Groundman & Jackhammer Oprs: | | | | | |
| 1st 6 months | 6.66 | .60 | 3% | | ½% |
| 2nd 6 months | 7.43 | .60 | 3% | | ½% |
| Experienced | 8.52 | .60 | 3% | | ½% |
| MARBLE, TILE & TERRAZZO WORKERS | 8.65 | .67 | | | |
| MARBLE, TILE & TERRAZZO FINISHERS | 7.08 | .67 | | | |
| PAINTERS: ZONE I | | | | | |
| Zone 1-A | 8.97 | .50 | .20 | | .05 |
| Zone 1-B | 9.47 | .50 | .20 | | .05 |
| Zone 1-C | 9.22 | .50 | .20 | | .05 |
| Zone 1-D | 9.55 | .50 | .20 | | .05 |
| Zone 1-E | 9.30 | .50 | .20 | | .05 |
| PAINTERS (INDUSTRIAL WORK): | | | | | |
| Brush, roller, sandblast and grinder operators | 10.27 | .50 | .20 | | .05 |
| Spray | 10.77 | .50 | .20 | | .05 |
| Pot Tender | 10.27 | .50 | .20 | | .05 |
| ZONE II: | | | | | |
| 2-A | 8.30 | .50 | .30 | | .05 |
| 2-B | 8.52 | .50 | .30 | | .05 |
| 2-C | 8.95 | .50 | .30 | | .05 |
| 2-D | 8.40 | .50 | .30 | | .05 |
| 2-E | 9.05 | .50 | .30 | | .05 |
| 2-F | 8.30 | .50 | .30 | | .05 |
| 2-G | 8.80 | .50 | .30 | | .05 |
| PAINTERS (INCUSTRIAL WORK): | | | | | |
| Brush, roller, sandblast and grinder operator | 10.17 | .50 | .30 | | .05 |
| Spray | 10.67 | .50 | .30 | | .05 |
| ZONE II (RESIDENTIAL) | | | | | |
| Brush and rollers | 8.30 | .50 | .30 | | .05 |
| Spray & Sandblast | 8.95 | .50 | .30 | | .05 |
| Paperhangers | 8.52 | .50 | .30 | | .05 |
| Vinyl hangers | 8.40 | .50 | .30 | | .05 |

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| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS' CONTD: | | | | | |
| ZONE III | | | | | |
| Zone 3-A | 8.01 | .30 | | | .02 |
| Zone 3-B | 8.43 | .30 | | | .02 |
| Zone 3-C | 8.155 | .30 | | | .02 |
| Zone 3-D | 8.43 | .30 | | | .02 |
| Zone 3-E | 8.86 | .30 | | | .02 |
| Zone 3-F - 12½¢ above scale | | .30 | | | .02 |
| Zone 3-G - 25¢ above scale | | .30 | | | .02 |
| Zone 3-H - 50¢ above scale | | .30 | | | .02 |
| Zone 3-I - 75¢ above scale | | .30 | | | .02 |
| Zone 3-J - $1.00 above scale | | .30 | | | .02 |
| PAINTERS: ZONE IV | | | | | |
| Zone 4-A | 7.12 | .35 | .20 | | .05 |
| Zone 4-B | 7.62 | .35 | .20 | | .05 |
| Zone 4-C | 7.37 | .35 | .20 | | .05 |
| Zone 4-D | 7.22 | .35 | .20 | | .05 |
| Zone 4-E | 7.70 | .35 | .20 | | .05 |
| Zone 4-F | 7.45 | .35 | .20 | | .05 |

PAINTERS' ZONE AND CLASSIFICATION DEFINITIONS

ZONE I - San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron Socorro, Lincoln, DeBaca, Roosevelt, Chabes, Valencia, Sierra, Grant, Hidalgo, Curry, Lea and Eddy Counties, New Mexico.
- Zone 1-A - Painters, roller and hand textures
- Zone 1-B - Painters, spray, sandblasting, painter on steel bridges, tanks towers, pipe and structural
- Zone 1-C - Paperhanger
- Zone 1-D - Drywall finisher; ames tool operator
- Zone 1-E - Hand finisher machine texture

ZONE II - Colfax, Hardin, Los Alamos, Mora, Sandoval, San Miguel, Rio Arriba, Taos, Union and Santa Fe Counties
- Zone 2-A - Painters and roller
- Zone 2-B - Paperhangers
- Zone 2-C - Spray, sandblast, steel, special coating applicator
- Zope 2-D - Vinyl hangers
- Zone 2-E - Drywall finisher tool and machine texture
- Zone 2-F - Hand texture
- Zone 2-G - Hand finisher

PAINTERS' ZONE AND CLASSIFICATION DEFINITIONS CONTD:

ZONE III - Luna, Otero and Dona Ana Counties
Zone 3-A - Brush, Tapers and rollers
Zone 3-B - Spray, sandblasting
Zone 3-C - Ames tool and steel brush after erection
Zone 3-D - Stripping machine
Zone 3-E - Radio towers, water tanks smoke stack
Zone 3-F - Radio towers, water tanks, smoke stacks 50 to 75 feet
Zone 3-G - Radio towers, water tansk smoke stacks 75 to 100 feet
Zone 3-H - Radio towers, water tanks, smoke stacks 100 to 200 feet
Zone 3-I - Radio towers, water tanks, smoke stacks 200 to 300 ft.
Zone 3-J - Radio towers, water tanks, smoke stacks 300 to 400 ft.
ZONE IV - Residential Construction in Santa Fe, Sandoval, Rio Arriba & Taos Cos.
Zone 4-A - Brush and roller
Zone 4-B - Spray, parking lot stripping
Zone 4-C - Paperhangers
Zone 4-D - Vinyl hangers
Zone 4-E - Drywall finishers - ames tool op., machine texture
Zone 4-F - Drywall finishers - hand finisher

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PLASTERERS: | | | | | |
| Statewide, except Otero, Grant, Sierra, Dona Ana. Luna, and Hidalgo Counties | 8.00 | .48 | .30 | | .01 |
| Otero, Grant, Sierra, Dona Ana. Luna and Hidalgo Counties | 8.31 | .67 | | | .01 |
| PLUMBERS-PIPEFITTERS: | | | | | |
| Area I | 12.10 | .68 | 1.42 | | .16 |
| Area II | 12.60 | .68 | 1.42 | | .16 |
| Area III | 13.85 | .68 | 1.42 | | .16 |
| Specific area | 12.73 | .68 | 1.42 | | .16 |
| Residential | 7.40 | .68 | .25 | | .16 |

PLUMBERS - PIPEFITTERS' ZONES DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari, Truth of Consequence and Socorro, New Mexico.

Area I - Shall include a distance of seven road miles inclusive beyond the city or town limits.

Area II - Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.

Area III - Shall apply to all areas not within ares 1 or 2, or not within the specific area.

Specific Area - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Oro Grande Range Camp and Dona Ana and Otero Counties.



POWER EQUIPMENT OPERATORS AREA DEFINITIONS:
AREA I - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15 - 35 miles from Farmington City Hall
Zone III - 35-50 miles from Farmington City Hall
AREA II - Statewide, except San Juan County

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AREA I ( RESIDENTIAL & BUILDING CONSTRUCTION) | | | | | |
| ZONE I | | | | | |
| Group 1 | 8.48 | .60 | .60 | | .15 |
| Group 2 | 9.27 | .60 | .60 | | .15 |
| Group 3 | 9.35 | .60 | .60 | | .15 |
| Group 4 | 9.41 | .60 | .60 | | .15 |
| Group 5 | 9.47 | .60 | .60 | | .15 |
| Group 6 | 9.57 | .60 | .60 | | .15 |
| Group 7 | 9.67 | .60 | .60 | | .15 |
| Group 8 | 10.20 | .60 | .60 | | .15 |
| ZONE II | | | | | |
| Group 1 | 10.23 | .60 | .60 | | .15 |
| Group 2 | 11.02 | .60 | .60 | | .15 |
| Group 3 | 11.10 | .60 | .60 | | .15 |
| Group 4 | 11.16 | .60 | .60 | | .16 |
| Group 5 | 11.22 | .60 | .60 | | .15 |
| Group 6 | 11.32 | .60 | .60 | | .15 |
| Group 7 | 11.42 | .60 | .60 | | .15 |
| Group 8 | 11.95 | .60 | .60 | | .15 |
| ZONE III | | | | | |
| Group 1 | 10.48 | .60 | .60 | | .15 |
| Group 2 | 11.27 | .60 | .60 | | .15 |
| Group 3 | 11.35 | .60 | .60 | | .15 |
| Group 4 | 11.41 | .60 | .60 | | .15 |
| Group 5 | 11.47 | .60 | .60 | | .15 |
| Group 6 | 11.57 | .60 | .60 | | .15 |
| Group 7 | 11.67 | .60 | .60 | | .15 |
| Group 8 | 12.20 | .60 | .60 | | .15 |
| AREA II (RESIDENTIAL AND GENERAL BUILDING CONSTRUCTION) | | | | | |
| Group 1 | 8.48 | .60 | .60 | | .15 |
| Group 2 | 9.27 | .60 | .60 | | .15 |
| Group 3 | 9.35 | .60 | .60 | | .15 |
| Group 4 | 9.41 | .60 | .60 | | .15 |
| Group 5 | 9.47 | .60 | .60 | | .15 |
| Group 6 | 9.57 | .60 | .60 | | .15 |
| Group 7 | 9,67 | .60 | .60 | | .15 |
| Group 8 | 10.20 | .60 | .60 | | .15 |

HEAVY CONSTRUCTION (POWER EQUIPMENT OPERATORS AREA DEFINITIONS)

AREA I - Statewide, except San Juan County
Basing points for zone pay shall be determined from the Center of the following cities - Albuquerque, Carlsbad, Gallup, Raton and Las Cruces.
Zone I - 0 - 50 miles
Zone II - Over 50 miles

AREA II - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15 to 35 miles from Farmington City Hall
Zone III - Over 35 miles from Farmington City Hall

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| HEAVY CONSTRUCTION(AREA I): | | | | | |
| GROUP I | | | | | |
| Zone 1 | 8.33 | .65 | .60 | | .15 |
| Zone 2 | 9.33 | .65 | .60 | | .15 |
| GROUP II | | | | | |
| Zone 1 | 9.07 | .65 | .60 | | .15 |
| Zone 2 | 10.07 | .65 | .60 | | .15 |
| GROUP III | | | | | |
| Zone 1 | 9.15 | .65 | .60 | | .15 |
| Zone 2 | 10.15 | .65 | .60 | | .15 |
| GROUP IV | | | | | |
| Zone 1 | 9.21 | .65 | .60 | | .15 |
| Zone 2 | 10.21 | .65 | .60 | | .15 |
| GROUP V | | | | | |
| Zone 1 | 9.27 | .65 | .60 | | .15 |
| Zone 2 | 10.27 | .65 | .60 | | .15 |
| GROUP VI | | | | | |
| Zone 1 | 9.37 | .65 | .60 | | .15 |
| Zone 2 | 10.37 | .65 | .60 | | .15 |
| GROUP VII | | | | | |
| Zone 1 | 9.47 | .65 | .60 | | .15 |
| Zone 2 | 10.47 | .65 | .60 | | .15 |
| GROUP VIII | | | | | |
| Zone 1 | 9.95 | .65 | .60 | | .15 |
| Zone 2 | 10.95 | .65 | .60 | | .15 |
| (HEAVY CONSTRUCTION) POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION (AREA II) | | | | | |
| GROUP I | | | | | |
| Zone 1 | 8.33 | .65 | .60 | | .15 |
| Zone 2 | 9.13 | .65 | .60 | | .15 |
| Zone 3 | 9.58 | .65 | .60 | | .15 |
| GROUP II | | | | | |
| Zone 1 | 9.07 | .65 | .60 | | .15 |
| Zone 2 | 9.77 | .65 | .60 | | .15 |
| Zone 3 | 10.32 | .65 | .60 | | .15 |
| GROUP III | | | | | |
| Zone 1 | 9.15 | .65 | .60 | | .15 |
| Zone 2 | 9.85 | .65 | .60 | | .15 |
| Zone 3 | 10.40 | .65 | .60 | | .15 |



| HEAVY CONSTRUCTION AREA II CONTD: | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP IV | | | | | |
| Zone 1 | 9.21 | .65 | .60 | | .15 |
| Zone 2 | 9.91 | .65 | .60 | | .15 |
| Zone 3 | 10.46 | .65 | .60 | | .15 |
| GROUP V | | | | | |
| Zone 1 | 9.27 | .65 | .60 | | .15 |
| Zone 2 | 9.97 | .65 | .60 | | .15 |
| Zone 3 | 10.52 | .65 | .60 | | .15 |
| GROUP VI | | | | | |
| Zone 1 | 9.37 | .65 | .60 | | .15 |
| Zone 2 | 10.07 | .65 | .60 | | .15 |
| Zone 3 | 10.62 | .65 | .60 | | .15 |
| GROUP VII | | | | | |
| Zone 1 | 9.47 | .65 | .60 | | .15 |
| Zone 2 | 10.17 | .65 | .60 | | .15 |
| Zone 3 | 10.72 | .65 | .60 | | .15 |
| GROUP VIII | | | | | |
| Zone 1 | 9.95 | .65 | .60 | | .15 |
| Zone 2 | 10.45 | .65 | .60 | | .15 |
| Zone 3 | 11.20 | .65 | .60 | | .15 |

POWER EQUIPMENT OPERATORS AREA DEFINITIONS

AREA I - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35-50 miles from Farmington City Hall

AREA II - Statewide, except San Juan County

| | | | | | |
|---|---|---|---|---|---|
| AREA I (SITE PREPARATION & DIRT WORK) | | | | | |
| ZONE I | | | | | |
| Group 1 | 8.48 | .65 | .60 | | .15 |
| Group 2 | 9.27 | .65 | .60 | | .15 |
| Group 3 | 9.35 | .65 | .60 | | .15 |
| Group 4 | 9.41 | .65 | .60 | | .15 |
| Group 5 | 9.47 | .65 | .60 | | .15 |
| Group 6 | 9.57 | .65 | .60 | | .15 |
| Group 7 | 9.67 | .65 | .60 | | .15 |
| Group 8 | 10.20 | .65 | .60 | | .15 |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AREA I (SITE PREPARATION & DIRT WORK CONTD:) | | | | | |
| ZONE II | | | | | |
| Group 1 | 10.23 | .65 | .60 | | .15 |
| Group 2 | 11.02 | .65 | .60 | | .15 |
| Group 3 | 11.10 | .65 | .60 | | .15 |
| Group 4 | 11.16 | .65 | .60 | | .15 |
| Group 5 | 11.22 | .65 | .60 | | .15 |
| Group 6 | 11.32 | .65 | .60 | | .15 |
| Group 7 | 11.42 | .65 | .60 | | .15 |
| Group 8 | 11.95 | .65 | .60 | | .15 |
| ZONE III | | | | | |
| Group 1 | 10.48 | .65 | .60 | | .15 |
| Group 2 | 11.27 | .65 | .60 | | .15 |
| Group 3 | 11.35 | .65 | .60 | | .15 |
| Group 4 | 11.41 | .65 | .60 | | .15 |
| Group 5 | 11.47 | .65 | .60 | | .15 |
| Group 6 | 11.57 | .65 | .60 | | .15 |
| Group 7 | 11.67 | .65 | .60 | | .15 |
| Group 8 | 12.50 | .65 | .60 | | .15 |
| AREA II (SITE PREPARATION & DIRT WORK) | | | | | |
| Group 1 | 8.48 | .65 | .60 | | .15 |
| Group 2 | 9.27 | .65 | .60 | | .15 |
| Group 3 | 9.35 | .65 | .60 | | .15 |
| Group 4 | 9.41 | .65 | .60 | | .15 |
| Group 5 | 9.47 | .65 | .60 | | .15 |
| Group 6 | 9.57 | .65 | .60 | | .15 |
| Group 7 | 9.67 | .65 | .60 | | .15 |
| Group 8 | 10.20 | .65 | .60 | | .15 |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
BUILDING, RESIDENTIAL, HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK

GROUP I - Fireman, oiler, screedman, scale operator such as bin-a-batch, rubber tired farm type tractor, tractors under 50 HP without attachments, breakman, concrete paving curing machine (bridge-type), helpers: (mechanic, welder, grease truck)

GROUP II - Rollers, sheepsfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM & over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor farm type (under 50 HP with attachments) motorman and industrial locomotive operator, winch truck, front end loaders, (under 2 CY), power plants which generate over 15 KW, welding machines



POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONTD:
BUILDING, RESIDENTIAL, HEAVY CONSTRUCTION& SITE PREPARATION & DIRT WORK

GROUP III - Bituminous distributors, boilers, retort and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment, motor grades (rough), shaft and tunnel equipment; (Refrigeration, slusher, jumbo forms), trenching machines (all types), pump crete and gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, concrete slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants

GROUP IV - Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldozers, scrapers (motor or towed), elevating graders, concrete batching plants, self-propelled rollers -- equipped with dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (60¢ over basic rate)

GROUP V - Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoists, auto fine grader

GROUP VI - Mucking machines - all types, motor grader (finish) mechanic - welder

GROUP VII - Steam engineers, loader (front end over 10 CY), concrete pump (snorkel type)

GROUP VIII - All shovel type equipment: cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, jydraulic cranes (20 tons and over), mine hoist, belt loader ("C.M.I." Type), booms & jibs 150 ft. through 199 ft. - 25¢ per hour above base pay. 200 ft. and over - 50¢ per hour above base pay. Shovel (wheel type), boring machine (tunnel or shaft mole), pipe mobile

OPERATORS OF EQUIPMENT NOT LISTED SHALL BE PAID A RATE COMPARABLE TO MACHINE LISTED.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ROOFERS (BLDG. CONST) | 8.30 | .35 | | | |
| ROOFERS (RESIDENTIAL CONST) | 7.10 | .35 | | | |
| SHEET METAL WORKERS: | | | | | |
| Zone 1 | 10.87 | .53 | 1.00 | | .12 |
| Zone 2 | 9.62 | 3%+.51 | .385 | | .04 |
| Zone 3 | 8.35 | .20 | | | .05 |
| Zone 4 | 11.87 | .53 | 1.00 | | .12 |

SHEET METAL WORKERS ZONE DEFINITIONS

Zone 1 - Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Socorro, Union, Taos, Torrance, Valencia, San Juan Counties, Kirtland Air Force Base.

Zone 2 - Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties

Zone 3 - Holloman Air Force Base, White Sands and McGregor Ranges

Zone 4 - Los Alamos County

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| SPRINKLER FITTERS | 11.71 | .75 | 1.05 | | .08 |
| SOFT FLOOR LAYERS: | | | | | |
| Zone 1 | 8.80 | .50 | .50 | | .04 |
| Zone 2 | 8.25 | .35 | .40 | | .02 |

SOFT FLOOR LAYERS' ZONE DEFINITIONS

Zone 1 - Dona Ana, Luna and Otero Counties
Zone 2 - Statewide (excluding Dona Ana, Luna and Otero Counties)

| | | | | | |
|---|---|---|---|---|---|
| SOUND INSTALLERS: | | | | | |
| SOUNDMAN | | | | | |
| Zone 1 | 10.10 | .60 | 3% | | ½% |
| Zone 2 | 11.36 | .60 | 3% | | ½% |
| Zone 4 | 13.89 | .60 | 3% | | ½% |
| TECHNICIANS | | | | | |
| Zone 1 | 8.08 | .60 | 3% | | ½% |
| Zone 2 | 9.34 | .60 | 3% | | ½% |
| Zone 3 | 11.87 | .60 | 3% | | ½% |
| SOUND INSTALLERS | | | | | |
| Zone 1 | 6.57 | .60 | 3% | | ½% |
| Zone 2 | 7.83 | .60 | 3% | | ½% |
| Zone 3 | 10.36 | .60 | 3% | | ½% |

SOUND INSTALLERS ZONE DEFINITIONS

ZONE I - Thirty mile radius of main post office of Albuquerque
ZONE II - Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased to twelve and one-half (12½) percent of journeyman rate of pay for Zone I.
ZONE III - Chaves, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Catron, Sierra, Grant Los Alamos, San Juan, McKinley Counties, the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for Zone I



| GENERAL BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TRUCK DRIVERS: | | | | | |
| Group 1 | 6.91 | .57 | .50 | | |
| Group 2 | 7.03 | .57 | .50 | | |
| Group 3 | 7.11 | .57 | .50 | | |
| Group 4 | 7.23 | .57 | .50 | | |
| Group 5 | 7.28 | .57 | .50 | | |
| Group 6 | 7.38 | .57 | .50 | | |
| Group 7 | 7.48 | .57 | .50 | | |
| Group 8 | 7.62 | .57 | .50 | | |
| Group 9 | 7.77 | .57 | .50 | | |
| TRUCK DRIVERS (RESIDENTIAL CONST. | | | | | |
| Group 1 | 6.61 | .57 | .50 | | |
| Group 2 | 6.73 | .57 | .50 | | |
| Group 3 | 6.81 | .57 | .50 | | |
| Group 4 | 6.93 | .57 | .50 | | |
| Group 5 | 6.98 | .57 | .50 | | |
| Group 6 | 7.08 | .57 | .50 | | |
| Group 7 | 7.18 | .57 | .50 | | |
| Group 8 | 7.32 | .57 | .50 | | |
| Group 9 | 7.47 | .57 | .50 | | |
| TRUCK DRIVERS (HEAVY CONST.) | | | | | |
| Group 1 | 8.26 | .67 | .55 | | |
| Group 2 | 8.38 | .67 | .55 | | |
| Group 3 | 8.46 | .67 | .55 | | |
| Group 4 | 8.58 | .67 | .55 | | |
| Group 5 | 8.63 | .67 | .55 | | |
| Group 6 | 8.73 | .67 | .55 | | |
| Group 7 | 8.83 | .67 | .55 | | |
| Group 8 | 8.97 | .67 | .55 | | |
| Group 9 | 9.12 | .67 | .55 | | |

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, RESIDENTIAL CONSTRUCTION)

GROUP I - Pickup 3/4 ton and under, service station, including lubrication, light tire repair and washer, swamper or riding helper, 2 or 4 up

GROUP II - Bus or taxi driver, dump or batch truck under 8 C.W.L.C.: flat bed (bobtail) 2 ton and under; mechanic and welder helper; fork lift under 5 tons MRC.

GROUP III - Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, RESIDENTIAL CONSTRUCTION CONTD:)

GROUP IV - Distributor driver; heavy tire repairman; lumber carrier driver; young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail driver (flat-bed or vansingle axle); forklifts 5 ton and over MRC: field equipment servicemen

GROUP V - Dumpsters and dumpcrete driver; water, fuel or oil truck 3,000 to 6,000 gal; lowboys and light equipment driver; euclid type tank wagon under 6,000 gal.

GROUP VI - Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.: head field equipment servicement

GROUP VIII - Euclid diesel power turnarocker; terra coba-DW20-LeTourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gal. and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all

GROUP IX - Warehousemen including material checker; cardex man; lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender men)

TEAMSTERS classifications not listed shall be paid a rate comparable to classification listed.

HEAVY CONSTRUCTION TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP I - Pickup 3.4 to and under, service station, lubrication, light tire repair or washer, swamper or riding helper, teamster 2 or 4 up

GROUP II - Bus or taxi driver, dump or batch truck, under 8 C.Y.W.L.C. flatbed (bobtail) 2 ton and under, warehouseman including material checker, cardex man, expeditor, mechanic and welder helper, forklift under 5 ton M.R.C.

GROUP III - Dump trucks (including all highway & off-highway) 8 up to 16 C.Y.W.L.C., wate, fuel or oil trucks less than 3,000 gals., flatbed (bobtail) over 2 tons

GROUP IV - Distributor driver, heavy tire repair, lumber carrier driver, young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C., field equipment servicement



HEAVY CONSTRUCTION TRUCK DRIVERS CLASSIFICATION DEFINITIONS CONTD:

GROUP V - Dumpster and dumpcrete driver, water, fuel or oil truck, 3,000 to 6,000 gals., capacity, lowboy, light equipment driver, euclid type tank wagon under 6,000 gallons

GROUP VI - Vacuum truck, dump trucks (including all highway & off-highway) 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver, flaherty truck type spreader box driver, slurry truck driver, bulk cement driver, semi-doubles, 4 axle bobtail, winch truck & "A" frame, dump trucks (including all highway and off-highway) 22 C.Y. up to 35 C.Y.W.L.C. head field equipment servicemen

GROUP VIII - Euclid diesel powered turnarocker, terra cobra, DW 10, DW 20, LeTourneau pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster, lowboy heavy equipment driver, water, fuel or oil trucks 6,000 gallons and over (including tank wagon drivers), semi-trailer driver (flatbed or van tandems) light equipment mechanic, dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over, truck and trailer or semi-trailer (flatbed), Ejectall

GROUP IX - Lowboy (heavy equipment, double gooseneck), heavy equipment mechanic, welder (body and fender man)

TEAMSTER CLASSIFICATION NOT LISTED SHALL BE PAID A RATE COMPARABLE TO CLASSIFICATIONS LISTED

| LEAD BURNERS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AREA I | 11.70 | .63 | 1.42 | | .16 |
| AREA II | 12.20 | .63 | 1.42 | | .16 |
| AREA III | 13.45 | .63 | 1.42 | | .16 |
| AREA IV | 12.33 | .63 | 1.42 | | .16 |

LEAD BURNERS BASING POINT & AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamorgordo, Anthony, Artesia, Belen, Casrlsbad, Clovis Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Begas, Lovington, Portales, Raton, Socorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth of Consequence.

AREA I - Shall include a distance of seven road miles inclusive beyond the city or town limits.

AREA II - Shall extend a distance of 4 road miles invlusive beyond the outer perimeter of area I.

AREA III - Shall apply to all areas not within 1 or 2, or not within the specific areas.

AREA IV (SPECIFIC AREA) - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - includes $0.07 contribution tothe Occupational Health Fund
b - lst 6 months - none; 6 months to 5 years, 6%; over 5 years, 8%; of basic hourly rate.
c - Paid Holidays: A through F
PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Comanche
DECISION NO. OK79-4017 DATE: Date of Publication
Supersedes Decision No. OK77-4060 dated March 11, 1977 in 42 FR 13786
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BRICKLAYERS | $6.65 | | | | |
| CARPENTERS | 5.85 | | | | |
| CEMENT MASONS | 7.00 | | | | |
| ELECTRICIANS | 8.45 | .20 | 1% | | 1/4% |
| LABORERS: | | | | | |
| Laborers | 3.00 | | | | |
| Mason tenders | 3.55 | | | | |
| PAINTERS, BRUSH | 5.00 | | | | |
| PLUMBERS & PIPEFITTERS | 6.16 | | | | |
| ROOFERS | 5.15 | | | | |
| SHEET METAL WORKERS | 5.52 | | | | |
| TILE SETTERS | 5.60 | | | | |
| TRUCK DRIVERS | 2.90 | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Front end loaders | 3.25 | | | | |
| Motor graders | 3.50 | | | | |
| Scrapers | 3.00 | | | | |

SUPERSEDES DECISION

STATE: Oklahoma

COUNTY: Oklahoma, Cleveland, Canadian, Lincoln and Pottawatomie

DECISION NO. OK79-4019

DATE: Date of Publication

Supersedes Decision No. OK77-4038 dated February 18, 1977 in 42 FR 10262

DESCRIPTION OF WORK: Residential construction, single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| CARPENTERS | $4.85 | | | | |
| CEMENT MASONS | 5.03 | | | | |
| ELECTRICIANS | 4.65 | | | | |
| LABORERS: | | | | | |
| Laborers | 3.00 | | | | |
| Mason tenders | 3.00 | | | | |
| PAINTERS, BRUSH | 4.02 | | | | |
| PAINTERS, SPRAY | 5.50 | | | | |
| PLUMBERS & PIPEFITTERS | 5.50 | | | | |
| ROOFERS | 4.17 | | | | |
| SHEET METAL WORKERS | 5.27 | | | | |
| SOFT FLOOR LAYERS | 4.10 | | | | |
| TILE SETTERS | 3.73 | | | | |
| TILE SETTERS FINISHERS | 2.90 | | | | |
| PLASTERERS | 4.98 | | | | |
| WELDERS - Rate for Craft | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Bulldozers | 3.25 | | | | |
| Blade graders | 3.50 | | | | |
| Backhoes | 4.00 | | | | |
| Scrapers | 3.50 | | | | |
| Shovels | 4.00 | | | | |

SUPERSEDEAS DECISION

STATE: Oklahoma

COUNTY: Statewide (except heavy construction within the city of Muskogee)

DECISION NO. OK79-4020

DATE: Date of Publication

SUPERSEDEAS DECISION NO. OK78-4066 dated June 16, 1978 in 43 FR 26267

DESCRIPTION OF WORK: Construction, alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water and sewer utilities (but does not include building structures on highway rest areas).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Air tool man | $ 4.70 | | | | |
| Asphalt heaterman | 5.30 | | | | |
| Asphalt raker | 5.40 | | | | |
| Asphalt shoveler | 4.55 | | | | |
| Carpenter | 6.25 | | | | |
| Carpenter helper | 5.30 | | | | |
| Concrete finisher | 6.40 | | | | |
| Concrete finisher helper | 5.25 | | | | |
| Concrete rubber | 5.40 | | | | |
| Electricians | 10.60 | | | | |
| Electricians helper | 7.40 | | | | |
| Fireman | 5.30 | | | | |
| Form builder | 5.90 | | | | |
| Form builder helper | 5.10 | | | | |
| Form setter | 5.90 | | | | |
| Form setter helper | 5.10 | | | | |
| Laborer, common | 4.10 | | | | |
| Manhole builder | 5.75 | | | | |
| Mechanic | 6.50 | | | | |
| Mechanic helper | 5.30 | | | | |
| Oiler | 5.65 | | | | |
| Painter | 5.65 | | | | |
| Painter helper | 4.70 | | | | |
| Piledrivermen | 5.30 | | | | |
| Powderman | 5.55 | | | | |
| Powderman helper | 4.80 | | | | |
| Reinforcing steel setter (pvg.) | 5.30 | | | | |
| Reinforcing steel setter (strs.) | 5.30 | | | | |
| Reinforcing steel setter (helper) | 4.45 | | | | |
| Steel worker (strs.) | 6.00 | | | | |
| Steel worker helper (strs.) | 5.15 | | | | |
| Spreader box man | 4.70 | | | | |
| Vibrator (hand type) | 4.45 | | | | |
| Weighman (truckscales) | 4.25 | | | | |
| Welder | 6.00 | | | | |
| Welder helper | 5.10 | | | | |
| Pipelayer | 5.90 | | | | |
| TRUCK DRIVERS: | | | | | |
| Over 2 tons | 5.05 | | | | |
| 2 tons and under | 4.55 | | | | |
| Tandem axel & semi-trailer | 5.30 | | | | |
| Lowboy | 5.40 | | | | |
| Transit mix & winch | 5.30 | | | | |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Asphalt distributor | $5.65 | | | | |
| Asphalt paving machine | 6.50 | | | | |
| Bulldozer | 6.50 | | | | |
| Cement unloading & machine op. | 4.70 | | | | |
| Concrete paving machine | 6.25 | | | | |
| Concrete finishing machine | 5.90 | | | | |
| Concrete saw operator | 5.65 | | | | |
| Concrete batching plant | 6.25 | | | | |
| Crane, clamshell, backhoe, derrickk, dragline, shovel | 6.50 | | | | |
| Crusher & screening plant op. | 5.90 | | | | |
| Front end loader (1 cy & less) | 5.65 | | | | |
| Front end loader (over 1 cy) | 6.25 | | | | |
| Hoist | 5.65 | | | | |
| Mixer (over 16 C.F.) | 5.75 | | | | |
| Mixer (16 C.F. & less) | 5.35 | | | | |
| Mixer (concrete paving) | 5.90 | | | | |
| Motor grader operator | 6.50 | | | | |
| Pug mill operator | 5.85 | | | | |
| Pump crete | 5.30 | | | | |
| Roller (steel wheel) | 5.90 | | | | |
| Roller (pneumatic) | 5.45 | | | | |
| Scrapers | 6.25 | | | | |
| Tractors (crl.) 80 HP & less | 5.55 | | | | |
| Tractors (crl.) over 80 HP | 5.90 | | | | |
| Tractors (pneu.) 80 HP & less | 4.70 | | | | |
| Tractors (pneu.) over 80 HP | 5.05 | | | | |
| Traveling plant | 5.70 | | | | |
| Trenching machine | 5.80 | | | | |
| Wagon drill | 5.45 | | | | |
| Power broom operator | 5.25 | | | | |
| Pavement profiler operator | 6.50 | | | | |
| WELL DRILLING | | | | | |
| ZONE A | | | | | |
| Well drillers | 4.00 | | | | |
| Well driller helpers | 3.00 | | | | |
| ZONE B | | | | | |
| Well drillers | 3.00 | | | | |
| Well drillers helper | 2.90 | | | | |



AREA COVERED BY VARIOUS ZONES

WELL DRILLING:

ZONE A -- ADAIR, ATOKA, BECKHAM, BLAINE, CADDO, CANADIAN, CHEROKEE, CHOCTAW, CRAIG, CUSTER, DELAWARE, DEWEY, HASKELL, KINGFISHER, LATIMER, LEFLORE, McCURTAIN, McINTOSH, MAYES, MUSKOGEE, NOWATA, OKMULGEE, OTTAWA, PUSHMATAHA, ROGER MILLS, ROGERS, SEQUOYAH, TULSA, WAGONER, WASHINGTON, AND WASHITA COUNTIES.

ZONE B -- ALFALFA, BEAVER, BRYAN, CARTER, CIMMARRON, CLEVELAND, COAL, COMANCHE, COTTON, CREEK, ELLIS, GARFIELD, GARVIN, GRADY, GRANT, GREER, HARMON, HARPER, HUGHES, JACKSON, JEFFERSON, JOHNSTON, KAY, KIOWA, LINCOLN, LOGAN, LOVE, McCLAIN, MAJOR, MARSHALL, MURRAY, NOBLE, OKFUSKEE, OKLAHOMA, OSAGE, PAWNEE, PAYNE, PITTSBURG, PONTOTOC, PONTOTOC, POTTAWATOMIE, SEMINOLE, STEPHENS, TEXAS, TILLMAN, WOODS, AND WOODWARD COUNTIES.

SUPERSEDEAS DECISION

STATE: TENNESSEE
COUNTIES: DYER, GIBSON, LAKE, LAUDERDALE, OBION, & WEAKLEY
DECISION NUMBER: TN79-1005
DATE: DATE OF PUBLICATION
Supersedes Decision Number TN76-[illegible], dated December 28, 1976, in 41 FR 56593.
DESCRIPTION OF WORK: Residential construction - consisting of single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Air conditioning & Heating mechanics | $ 5.10 | | | | |
| Bricklayers | 4.92 | | | | |
| Carpenters | 4.09 | | | | |
| Cement masons | 4.11 | | | | |
| Drywall finishers | 4.46 | | | | |
| Drywall hangers | 4.34 | | | | |
| Electricians | 5.10 | | | | |
| Insulation installers | 3.50 | | | | |
| Ironworkers - Structural & Ornamental | 3.50 | | | | |
| Laborers: | | | | | |
| Unskilled | 2.90 | | | | |
| Mason tenders | 3.28 | | | | |
| Painters - brush | 4.44 | | | | |
| Plumbers & Pipefitters | 6.00 | | | | |
| Roofers | 4.51 | | | | |
| Sheet metal workers | 6.00 | | | | |
| Soft floor layers | 7.00 | | | | |
| Tile setters | 5.00 | | | | |
| Truck drivers | 2.90 | | | | |
| Welders - Rate for craft. | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Backhoes | 6.00 | | | | |
| Bulldozers | 8.00 | | | | |
| Motor graders | 3.75 | | | | |
| Pavers | 3.75 | | | | |
| Rollers | 3.50 | | | | |
| Tractors | 4.00 | | | | |

SUPERSEDEAS DECISION

STATE: TENNESSEE
COUNTIES: CARTER & SULLIVAN
DECISION NUMBER: TN79-1006
DATE: DATE OF PUBLICATION
Supersedes Decision Number TN75-1098, dated September 26, 1975, in 40 FR 44476.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION - consisting of single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Accoustical tile mechanics | $ 3.50 | | | | |
| Air conditioning mechanics | 3.00 | | | | |
| Bricklayers | 6.00 | | | | |
| Carpenters | 4.07 | | | | |
| Cement masons | 4.25 | | | | |
| Drywall finishers | 4.50 | | | | |
| Drywall hangers | 4.50 | | | | |
| Electricians | 4.76 | | | | |
| Insulation installers | 3.20 | | | | |
| Ironworkers - reinforcing | 4.70 | | | | |
| Laborers: | | | | | |
| Unskilled | 2.90 | | | | |
| Pipelayers | 3.00 | | | | |
| Lathers | 5.15 | | | | |
| Painters- brush | 3.00 | | | | |
| Plasterers | 4.75 | | | | |
| Plumbers & Pipefitters | 4.04 | | | | |
| Roofers | 3.00 | | | | |
| Sheet metal workers | 3.00 | | | | |
| Soft floor layers | 3.30 | | | | |
| Tile setters | 3.00 | | | | |
| Truck drivers | 2.90 | | | | |
| Welders - Rate for craft. | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Air compressor | 3.55 | | | | |
| Backhoe | 3.50 | | | | |
| Bulldozer | 3.50 | | | | |
| Front end loader | 3.75 | | | | |
| High lift | 3.62 | | | | |
| Motor grader | 3.55 | | | | |
| Shovel | 3.00 | | | | |

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: SHELBY
DECISION NUMBER: TN79-1007 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN76-1057, dated May 14, 1976, in 41 FR 20148.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION - consisting of single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Air conditioning mechanics | $ 4.00 | | | | |
| Bricklayers | 5.00 | | | | |
| Carpenters | 4.21 | | | | |
| Cement masons | 3.75 | | | | |
| Drywall nailer | 3.95 | | | | |
| Drywall finishers | 3.95 | | | | |
| Electricians | 5.08 | | | | |
| Ironworkers - ornamental | 3.12 | | | | |
| Laborers: | | | | | |
| Unskilled | 2.90 | | | | |
| Mortar mixers | 2.93 | | | | |
| Pipelayers | 3.00 | | | | |
| Marble setters | 4.68 | | | | |
| Painters - brush | 4.67 | | | | |
| Plumbers & Pipefitters | 6.23 | | | | |
| Roofers | 5.00 | | | | |
| Sheet metal workers | 4.34 | | | | |
| Soft floor layers | 3.75 | | | | |
| Truck drivers | 2.90 | | | | |
| Welders - Rate for craft. | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Air compressor | 4.15 | | | | |
| Bulldozer | 4.62 | | | | |
| Crane | 5.77 | | | | |
| Concrete finishing machine | 4.00 | | | | |
| Front end loader | 4.70 | | | | |
| Motor grader | 4.70 | | | | |
| Scraper | 4.70 | | | | |
| Tractor | 3.75 | | | | |

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: BRADLEY
DECISION NUMBER: TN79-1008 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN77-1121, dated September 30, 1977, in 42 FR 52881
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Bricklayers | $ 7.50 | | | | |
| Carpenters | 5.50 | | | | |
| Cement masons | 5.50 | | | | |
| Electricians | 9.05 | .60 | 1% + .30 | | 1% |
| Glaziers | 8.14 | | | 4% | |
| Ironworkers: | | | | | |
| Structural | 6.70 | | | | |
| Reinforcing | 5.50 | | | | |
| Laborers | 4.00 | | | | |
| Lathers | 8.70 | | | | |
| Painters | 5.00 | | | | |
| Plumbers & Pipefitters | 7.55 | | | | |
| Roofers | 4.00 | | | | |
| Sheet metal workers | 4.50 | | | | |
| Sprinkler fitters | 7.08 | .10 | .36 | | |
| Terrazzo workers | 6.70 | | | | |
| Tile setters | 7.63 | | | | |
| Truck drivers | 4.35 | | | | |
| Welders - Rate for craft. | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Bulldozer | 5.50 | | | | |
| Crane | 5.50 | | | | |
| Motor grader | 5.125 | | | | |

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: MADISON
DECISION NUMBER: TN79-1009 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN77-1131, dated October 14, 1977, in 42 FR 55411.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| BRICKLAYERS | $ 7.25 | .30 | | | |
| CARPENTERS | 7.35 | | | | |
| CEMENT MASONS | 7.00 | | | | |
| ELECTRICIANS | 6.50 | | | | |
| GLAZIERS | 9.00 | | | | |
| IRONWORKERS - Structural & Ornamental | 7.49 | | | | |
| LABORERS: | | | | | |
| Unskilled | 4.00 | | | | |
| Mason tenders | 4.75 | | | | |
| PAINTERS - Brush | 6.20 | | | | |
| PLUMBERS & PIPEFITTERS | 8.70 | | .50 | | .03 |
| ROOFERS & WATERPROOFERS | 9.40 | .25 | | | .03 |
| SHEET METAL WORKERS | 6.43 | | | | |
| TILE SETTERS | 6.15 | .30 | | | |
| TRUCK DRIVERS | 4.00 | | | | |
| WELDERS - Rate for craft. | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Backhoe | 5.00 | | | | |
| Crane | 5.00 | | | | |
| Front end loader | 4.86 | | | | |

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: RUTHERFORD
DECISION NUMBER: TN79-1010 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN77-1114, dated September 30, 1977, in 42 FR 53117.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $10.25 | .45 | .35 | | |
| BRICKLAYERS | 7.34 | | | | |
| CARPENTERS | 5.55 | | | | |
| CEMENT MASONS | 5.40 | | | | |
| ELECTRICIANS | 5.50 | | | | |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Mechanics | 8.945 | .745 | .56 | a + b | .025 |
| Helpers | 6.26 | .745 | .56 | a + b | .025 |
| GLAZIERS | 8.05 | .50 | .50 | | |
| IRONWORKERS: | | | | | |
| Structural | 5.15 | | | | |
| Reinforcing | 5.96 | | | | |
| LABORERS: | | | | | |
| Unskilled | 3.42 | | | | |
| Air tool operators, mason tenders, & mortar mixers | 3.50 | | | | |
| LATHERS | 8.30 | | .20 | .40 | .08 |
| PAINTERS | 5.67 | | | | |
| PLASTERERS | 7.90 | .40 | .20 | .10 | .07 |
| PLUMBERS | 6.65 | | | | |
| ROOFERS | 4.90 | | | | |
| SHEET METAL WORKERS | 5.65 | | | | |
| SOFT FLOOR LAYERS | 5.15 | | | | |
| SPRINKLER FITTERS | 10.80 | .75 | 1.05 | | .08 |
| STEAM FITTERS | 8.84 | .45 | .45 | .25 | .05 |
| TILE SETTERS | 5.25 | | | | |
| TILE GRINDERS | 4.30 | | | | |
| TRUCK DRIVERS | 4.75 | | | | |
| WELDERS - Rate for craft. | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Air compressors | 4.20 | | | | |
| Asphalt pavers | 3.62 | | | | |
| Backhoes | 4.75 | | | | |
| Bulldozers | 4.20 | | | | |
| Cranes | 6.00 | | | | |
| Motor graders | 4.20 | | | | |
| Rollers | 5.00 | | | | |
| Tractors | 5.45 | | | | |
| Trenchers | 4.20 | | | | |

DECISION NO. TN79-1010

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christams Day.

b. Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service as Vacation Pay Credit.

| Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|
| | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| | | | | |

SUPERSEDEAS DECISION

STATE: TENNESSEE

COUNTIES: CARTER, HAWKINS, JOHNSON, SULLIVAN, & WASHINGTON

DECISION NUMBER: TN79-1011

DATE: DATE OF PUBLICATION

Supersedes Decision Number TN77-1087, dated September 30, 1977, in 42 FR 53116.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Asbestos workers | $ 5.75 | .37 | | .01 | |
| Bricklayers | 7.15 | | | | |
| Carpenters | 6.40 | | | | |
| Cement masons | 5.80 | | | | |
| Electricians | 8.20 | .40 | 3% | | ½ of 1% |
| Ironworkers: | | | | | |
| Structural & Ornamental | 8.34 | .50 | .50 | | .02 |
| Reinforcing | 8.20 | .50 | .50 | | .02 |
| Laborers: | | | | | |
| Unskilled | 2.90 | | | | |
| Mason tenders | 3.35 | | | | |
| Pipe layers | 4.00 | | | | |
| Lathers | 5.00 | | | | |
| Millwrights | 6.30 | | | | |
| Painters | 4.48 | | | | |
| Plasterers | 5.50 | | | | |
| Plumbers & Steam fitters | 8.80 | .45 | .45 | | .02 |
| Roofers | 5.40 | | | | |
| Sheet metal workers | 5.24 | | | | |
| Tile setters | 4.00 | | | | |
| Truck drivers | 3.25 | | | | |
| WELDERS - Rate for craft. | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| GROUP A | 8.19 | .30 | .30 | | .05 |
| GROUP B | 7.61 | .30 | .30 | | .05 |
| GROUP C | 6.36 | .30 | .30 | | .05 |
| GROUP D | 5.84 | .30 | .30 | | .05 |

DECISION NO. TN79-1011

CLASSIFICATIONS DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP A - Backhoes; cableways; ross carriers; clamshells; cranes; derricks; draglines; turnapulls; pans; scrapers; scoops; head tower machines; end-loaders; locomotives (over 20 tons); shovels; dozers; fork-lifts (over 8' lift); core drills; foundation drills; graders; mechanics; welders; winch trucks with A-frame; skimmer scoops; locomotive cranes; overhead cranes; skid rigs; piledrivers; side boom tractors; euclid loaders; derrick boats; dredge boats; hoist (any size handling steel or stone); engines used in connection with hoists material; mucking-machines; cherry pickers; tower cranes; skylift; gradall.

GROUP B - Tractors; farm type tractors (with attachments); central compressor plants; elevators (used for hoisting building materials); central mixing plants; hoists (not handling steel or stone); pump-crete machine; concrete pumps; backfillers (other than cranes); trac-mobile; crushing plant; elevating graders; earth augers; fork lifts (8' lift or under); paving machines (blacktop/concrete); boat operators or engineers (30 tons or over); blacktop rollers; switchman; locomotive (Under 20 tons); maintainers.

GROUP C - Asphalt plants; barber-green type loader; engine tenders (other than steam); mixers (over 2 bags, not to include central plants); pumps (not more than 3); scarifiers; spreader box (bituminous); asphalt mixers; portable compressors (not more than 3); roller; sub-grader machines; tractors (farm type without attachments); cable head tower engineman; dredge booster pump; boat operators or engineers (under 30 tons); finishing machines; fireman & oiler (Combination); motor crane oiler & driver; welding machines (not more than 3); heaters (stationary or portable, mot more than 5); compressors (portable, not more than 3); greaser or fuel truck.

GROUP D - Air compressor (1 portable); fireman; portable crushers; welding machine (one); conveyors; pump (one); oilers; heater (one).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Brazos
DECISION NO.: TX79-4003 DATE: Date of Publication
Supersedes Decision No. TX78-4082 dated August 25, 1978, in 43 FR 38278.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & Highway general wage determination for Paving & Utilities Incidental to Building Construction).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $11.75 | .90 | .90 | | .05 |
| BOILERMAKERS | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS | 11.36 | .63 | .60 | | .06 |
| CARPENTERS | 9.95 | | | | |
| CEMENT MASONS | 10.60 | .52 | .58 | | .08 |
| ELECTRICIANS | 12.25 | .55 | 10% | | .06 |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Mechanics | 10.35 | .745 | .35 | 4%+a+b | .02 |
| Helpers | 70%JR | .745 | .35 | 4%+a+b | .02 |
| Helpers (probationary) | 50%JR | | | | |
| GLAZIERS | 11.17 | .60 | .425 | | .01 |
| IRONWORKERS | 10.96 | .55 | 1.15 | | .10 |
| LABORERS: | | | | | |
| GROUP 1 | 5.03 | .38 | .27 | | .02 |
| GROUP 2 | 5.13 | .38 | .27 | | .02 |
| GROUP 3 | 5.23 | .38 | .27 | | .02 |
| GROUP 4 | 5.18 | .38 | .27 | | .02 |
| GROUP 5 | 5.28 | .38 | .27 | | .02 |
| GROUP 6 | 5.43 | .38 | .27 | | .02 |

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction labor, including excavation, concrete work, reinforcing, mason handler and wheeler (stock pile), asphalt ironer and raker, water proofing tender, pipe layer (non-metallic), pump crete pipe (handling and laying) and all building construction labor excepting that hereinafter classified; window washer, carpenters tender, cement mason tender, vibrator operator, other mechanic tender (except as otherwise classified); Dumper & spotter
GROUP 2 - Air tool operator
GROUP 3 - Well driller
GROUP 4 - Cutting torch man; mason tender; mason handler & wheelers handling material from first stock pile; concrete pipe (handling and laying); Sand blaster; Power buggy operator; plasterer tender & hod carrier; lather tender; well driller tender
GROUP 5 - Tool room tender; mortar mixer (hoe and otherwise); Blaster, powder man; gunnite worker
GROUP 6 - Gunnite nozzleman

DECISION NO. TX79-4003

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LINE CONSTRUCTION: | | | | | |
| Lineman & cable splicer | $12.30 | .60 | 3% | | 1/2% |
| Groundman (1st 6 months) | 4.31 | .60 | 3% | | 1/2% |
| Groundman (2nd 6 months) | 5.17 | .60 | 3% | | 1/2% |
| Groundman | 7.13 | .60 | 3% | | 1/2% |
| MARBLE MASONS | 10.49 | .63 | .20 | | |
| PAINTERS: | | | | | |
| GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools | 10.595 | .565 | .45 | .40 | .04 |
| GROUP 2 - All spray painting, sandblasting, waterblasting | 10.97 | .565 | .45 | .40 | .04 |
| GROUP 3 - Tape, float & drywall | 10.72 | .565 | .45 | .40 | .04 |
| GROUP 4 - Steeple jack work, hot materials | 11.22 | .565 | .45 | .40 | .04 |
| PIPEFITTERS | 11.85 | .50 | .70 | | .045 |
| PLASTERERS | 11.30 | .87 | .30 | | .02 |
| PLUMBERS | 12.37 | .75 | .75 | | .12 |
| SHEET METAL WORKERS | 11.41 | .375 | .695 | .42 | .06 |
| SOFT LFOOR LAYERS | 10.53 | .50 | .45 | | .14 |
| TERRAZZO WORKERS | 10.49 | .63 | .20 | | |
| TILE SETTERS | 10.49 | .63 | .20 | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding in incidental. | | | | | |

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:

a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate

b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day



DECISION NO. TX79-4003

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| GROUP 1 | $10.94 | .70 | .85 | | .07 |
| GROUP 2 | 9.24 | .70 | .85 | | .07 |
| GROUP 3 | 8.66 | .70 | .85 | | .07 |
| GROUP 4 | 8.47 | .70 | .85 | | .07 |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick-power operated (all types); Clam shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more; Mix Mobile; Water Well Drilling Machines, used on construction; Building Elevator, used on construction; Tug Boat Operator, assigned to construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cubic feet or more; Paving Mixer (all types); Pile Driver; Scraper, heavy type, over 3 cubic yards; Trenching Machine (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel-Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW-10 Caterpillar, S-18 Euclid and similar tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader; Concrete Mixer, less than 14 cubic feet; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cubic yards or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or diesel driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A light equipment operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTY: El Paso
DECISION NO.: TX79-4004 DATE: Date of Publication
Supersedes Decision No. TX78-4083 dated August 25, 1978 in 43 FR 38279
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to & including 4 stories). (See current highway general wage determination for Paving Incidental to Building Construction

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $ 8.61 | .57 | 1.30 | | .03 |
| BOILERMAKERS | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS; BLOCKLAYERS; ROCK MASONS; STONEMASONS | 7.70 | .67 | .20 | | .05 |
| CARPENTERS: | | | | | |
| Carpenters | 8.17 | .67 | | | .02 |
| Millwrights | 8.68 | .67 | | | .02 |
| Stationary radial arm power saw operator | 8.34 | .67 | | | .02 |
| Floor layers | 8.17 | .67 | | | .02 |
| CEMENT MASONS | 7.12 | .67 | | | .03 |
| DRYWALL: | | | | | |
| GROUP 1 - Tapers | 7.70 | .38 | | | .02 |
| GROUP 2 - Ames tools | 7.92 | .38 | | | .02 |
| GROUP 3 - Texture spray | 8.40 | .38 | | | .02 |
| ELECTRICIANS: | | | | | |
| Electricians | 9.60 | .30 | 3% | | 1/10% |
| Cable splicers | 9.85 | .30 | 3% | | 1/10% |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Mechanics | 8.57 | .745 | .35 | 4%+a+b | .02 |
| Mechanic Helpers | 70%JR | .745 | .35 | 4%+a+b | .02 |
| Mechanic Helpers (Probationary) | 50%JR | | | | |
| IRONWORKERS | 9.15 | .55 | 1.15 | | .15 |
| LABORERS: | | | | | |
| GROUP 1 - Powderman or blasterer | 6.31 | .53 | .45 | | |
| GROUP 2 - Outside wagon drill; wagon drill tenders; miner | 6.06 | .53 | .45 | | |
| GROUP 3 - Cement gun or gunite; mason tender; mortar mixer; machine man; track man; chuck tender | 5.81 | .53 | .45 | | |
| GROUP 4 - Pipelayer, main sewer and drainage | 5.69 | .53 | .45 | | |
| GROUP 5 - Jackhammer operator, asphalt raker; kettlemen; asphalt or pot man | 5.56 | .53 | .45 | | |
| GROUP 6 - Common, flag man | 5.41 | .53 | .45 | | |
| LATHERS | 8.98 | | | | .01 |



DECISION NO. TX79-4004

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LINE CONSTRUCTION: | | | | | |
| Lineman-Technician; Equipment operators | $ 9.60 | .30 | 3% | | 1/10% |
| Cable splicers | 9.85 | .30 | 3% | | 1/10% |
| Groundman | 75%JR | .30 | 3% | | 1/10% |
| Groundman (less than 6 months) | 50%JR | .30 | 3% | | 1/10% |
| MARBLE MASONS | 6.98 | | .20 | | .04 |
| PAINTERS: | | | | | |
| GROUP 1 - Brush & roller, paperhanger; tapers | 7.70 | .38 | | | .02 |
| GROUP 2 - Steel after erection, steam cleaning, power driven tools | 8.11 | .38 | | | .02 |
| GROUP 3 - Spray, sandblasting, waterblasting & swing stage, stripping machine | 8.415 | .38 | | | .02 |
| GROUP 4 - Ames tools | 7.92 | .38 | | | .02 |
| GROUP 5 - Water tanks, smoke stacks, tower from 70 - 100 ft | 9.06 | .38 | | | .02 |
| PLASTERERS | 8.25 | .67 | | | .01 |
| PLUMBERS & STEAMFITTERS | 9.09 | .59 | .44 | | .05 |
| SHEET METAL WORKERS | 9.97 | 3%+.51 | .385 | | .04 |
| SOFT FLOOR LAYERS | 7.45 | .38 | .10 | | .02 |
| SPRINKLER FITTERS | 11.60 | .75 | 1.05 | | .08 |
| TERRAZZO WORKERS | 6.98 | | .20 | | .04 |
| TERRAZZO WORKERS' FINISHERS | 4.40 | | .20 | | |
| TILE SETTERS | 6.98 | | .20 | | .04 |
| TILE SETTERS' FINISHERS | 4.40 | | .20 | | |
| TRUCK DRIVERS: | | | | | |
| GROUP 1 - Up to and including 2 tons | 3.50 | .26 | | | |
| GROUP 2 - Flat bed dump trucks, mechanically | 3.60 | .26 | | | |
| GROUP 3 - Tank trucks, up to 2500 gallons | 3.50 | .26 | | | |

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TRUCK DRIVERS (CONT'D): | | | | | |
| GROUP 4 - Standard dump trucks, up to and including 4 cu. yds. | $ 3.60 | .26 | | | |
| GROUP 5 - Dump trucks, over 4 cu. yds.; trucks over 4 tons including transit mix, all semitruck, etc.; Lowboy | 3.75 | .26 | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:

a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate

b - Paid Holidays - A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| 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 |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Fireman, Oiler; Mechanic, Grease truck and welder's helpers; screedman, pneumatic roller towed by farm type tractor or truck; scale operator and such as bin-a-batch; rubber-tired farm type tractors and tractors under 35 HP without attachments

GROUP 2 - Air compressors, power plants, pumps and welding machines; concrete mixers, under 1 yd. & concrete batch plants, under 1 yd., gunnite & pumpcrete machine, mechanical bull floats, spreading & finishing machines. Screening plants. Drilling machines, diamond, torary, core & cable drilling; well under 6". Hoists scoopmobiles, A-frame air tugger; hydrolift, hydrocranes, winch truck. Loaders: elevating, belt type loader, front end loader (under 2 yds.) & over head loaders; forklift & lumber staker on construction job site. Motor man & Industrial locomotive. Tractors under 35 HP with attachments.

GROUP 3 - Concrete mixers 1 yd. & over and batch plants 1 yd. & over, single drum paving machines, crushing plant, drilling machine, 6" & over; front end loaders, 2 yds. & over; Paving: Asphalt plants, boiler or retort heater, distributor, lay down machine, pug mill, breakdown & tandem rollers. Steam Engineer. Trenching machines. Patrol, rough, not required to blue top or finish.

GROUP 4 - Tractor Equipment: Athey & Barber Green Loader, Bulldozer, DW10, DW20, DW21, Dumor, Elevating Grader; Euclid, Highlander, Scraper, Traxcavator, Turnapull, Turnarocker & Tractors 35 HP & up & farm type tractors with backhoe & shovel type attachments

GROUP 5 - Concrete paving machines, double drum. Catcranes, Hysters, Cherry Pickers, Attachments cranes, side & swing boom tractors; Mechanic, welder, patrol, finish; grease truck operator (head oiler). Building hoist, 1 drum. Concrete Pump (Snorkle Type Trailer Mounted)

GROUP 6 - Shovel, Backhoe, clam & dragline 3/4 yds. & under; Cranes 25 tons & under; Building Hoist, 2 drums & up. Concrete pump (Snorkle Type Truck Mounted)

GROUP 7 - Guy & stiff leg derrick, Piledrivers; Crawler or skid rig, shovel, backhoe, clam & dragline over 3/4 yds.; crane over 25 tons. Pecco type cranes

GROUP 8 - Refrigeration, slusher, Jumbo form operators

GROUP 9 - Mucking machines

GROUP 10 - Mine hoists

STATE: Texas COUNTIES: Bee, Kleberg & Nueces
DECISION NO.: TX79-4005 DATE: Date of Publication
Supersedes Decision No. TX78-4079 dated August 11, 1978, in 43 FR 35884
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidenal to Building Construction.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $10.74 | .55 | .60 | | |
| BOILERMAKERS | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS: | | | | | |
| Bee County | 5.50 | | | | |
| Kleberg & Nueces Counties | 9.31 | .28 | .30 | | .05 |
| CARPENTERS: | | | | | |
| Carpenters | 8.19 | .51 | .35 | | .05 |
| Millwrights | 10.30 | | | | 1% |
| CEMENT MASONS | 9.00 | | | | |
| ELECTRICIANS: | | | | | |
| Electricians | 10.90 | .60 | 3% | | 3/4% |
| Cable splicers | 11.025 | .60 | 3% | | 3/4% |
| GLAZIERS (excluding Kleberg Co.) | 7.35 | | .20 | | |
| IRONWORKERS | 8.52 | .55 | 1.15 | | .07 |
| LABORERS: | | | | | |
| GROUP 1 - General laborer (any work not specifically defined herein) | 4.80 | .28 | .10 | | |
| GROUP 2 - Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipelayers, lathers, finish carpenters, slip form ops., scaffolding, water proofers, cement finishers; Power tool ops. icludes paving buster, jackhammer, chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps & any & all power driven equipment operated by laborers | 5.00 | .28 | .10 | | |
| GROUP 3 - Pipe wrappers & dopers | 5.15 | .28 | .10 | | |
| GROUP 4 - Gunnite nozzlemen; Powderman or blaster | 5.25 | .28 | .10 | | |
| LATHERS | 7.75 | .30 | .20 | 1.00 | .01 |
| LINE CONSTRUCTION: | | | | | |
| Linemen | 10.93 | .60 | 3% | | 1/2% |
| Cable splicers | 11.055 | .60 | 3% | | 1/2% |
| Groundmen (1st year) | 5.47 | .60 | 3% | | 1/2% |
| Groundmen | 6.01 | .60 | 3% | | 1/2% |
| MARBLE, TILE & TERRAZZO WORKERS | 8.68 | | | | .02 |
| MARBLE, TILE & TERRAZZO FINISHERS: | | | | | |
| Marble, tile & terrazzo finisher | 6.37 | | | | |
| Terrazzo floor machine operator | 6.57 | | | | |
| Terrazzo base machine operator | 6.77 | | | | |
| PAINTERS: | | | | | |
| Brush | 8.10 | .55 | .25 | | 2/10% |
| Sign | 8.35 | .55 | .25 | | 2/10% |
| Spray | 8.50 | .55 | .25 | | 2/10% |

DECISION NO. TX79-4005

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PLASTERERS | $10.45 | | | | .01 |
| PLUMBERS & STEAMFITTERS | 8.565 | .335 | .35 | | .035 |
| ROOFERS: | | | | | |
| Roofers; Kettleman; Waterproofers; Deckmen | 7.225 | | .25 | | |
| SHEET METAL WORKERS | 8.67 | .23 | .275 | | .01 |
| SOFT FLOOR LAYERS | 8.19 | .51 | .35 | | .05 |
| SPRINKLER FITTERS | 11.60 | .75 | 1.05 | | .08 |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |

DECISION NO. TX79-4005

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP 1 | $ 8.60 | .32 | .75 | | |
| GROUP 2 | 7.475 | .32 | .75 | | |
| GROUP 3 | 6.675 | .32 | .75 | | |
| GROUP 4 | 6.825 | .32 | .75 | | |

GROUP 1 - Air Compressor over 125 CFM, gasoline or diesel powered; Asphalt Plant Mixer; Back Filler; Backhoe; Batch Plant (concrete); Blade Grader; Boring Machine (foundation, horizontal or waterwell); Bull Clam; Bulldozer; Cableway; Clamshell; Crane, power operated (all types); Crusher; Derrick, power operated (all types); Dragline; Elevating Grader; Elevator, outside the building; Euclids and similar type machines; Forklift (on construction except in warehouses); Grade-All; Hi-Lift; Hoist (2 drums or more); Locomotive and Switch Engines; Mixer (paving); Mixer (concrete); Pile Driver; Pumps (2) over 3 inches; Pumpcrete Machine; Push Cat or Pull Cat; Roller (pneumatic, flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench Machine; Tugboat (on construction); Turn-a-pulls and similar machines; Welding Machines (7 to 13) other than electric; Wellpoint; Winch Truck; Mechanic; Lubrication Engineer (required on grease racks and service trucks); All other equipment of similar nature coming within the Heavy Equipment Class when power operated

GROUP 2 - Air Compressor (1 or 2) 125 CFM or less, gasoline or diesel powered; Blade Grader (towed); Conveyor; Elevator, inside the building, permanent type; Fireman (required on any boiler, steam locomotive, steam crane, etc.); Flexplane; Form Grader; Generator (gas, diesel over 1500 watts); Hoist (1 drum); Mixer (less than 14 cu. ft.); Pulsometer; Pumps (1) over 3 inches; Pumps (1 or 2) 3 inches or under; Roller (towed); Tractor (wheel type); Driver-oiler (required on tractor or truck cranes on which controls of crane and those of tractor or truck are operated from different seats or stations, mobile type grade all, etc.); Wagon Drill; Welding Machine (3 to 6) other than electric; All other equipment of similar nature coming within the Light Equipment Class when power operated

GROUP 3 - Oilers, 1st year

GROUP 4 - Oilers, 2nd year

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Bell, Bosque, Coryell, Falls, Hill & McLennan

DECISION NO.: TX79-4006 DATE: Date of Publication

Supersedes Decision No. TX78-4096 dated September 22, 1978 in 43 FR 43242

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction in Bosque, Falls, Hill & McLennan Counties).

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS: | | | | | |
| ZONE 1 - Bell Coryell & Falls | $11.05 | .60 | .60 | | .08 |
| ZONE 2 - Bosque, Hill & McLennan | 10.83 | .50 | .76 | | .03 |
| BOILERMAKERS | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS | 10.60 | | .55 | | .03 |
| CARPENTERS: | | | | | |
| ZONE 1 - Bell & Coryell Cos. | | | | | |
| Carpenters | 9.25 | | | | |
| Millwrights | 9.50 | | | | |
| ZONE 2 - Bosque, Falls, Hill & McLennan: | | | | | |
| Carpenters | 9.58 | | | | |
| Millwrights | 10.10 | | | | |
| CEMENT MASONS | 9.34 | .60 | .55 | | |
| ELECTRICIANS: | | | | | |
| ZONE 1 - Bell (that part which is nearer to Waco than Austin but excluding that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & the City of Killeen), Bosque, Coryell (except that part of Ft. Hood south of Cowhouse Creek), Falls, Hill & McLennan Cos. | 10.00 | .60 | 3% | | 1/4% |
| ZONE 2 - Bell (that part which is nearer to Austin than Waco & not to exceed more than 2 miles into Bell Co. from the southeast boundary line of Coryell Co., Gray Field & the City of Killeen) & Coryeall (that part south of Cowhouse Creek) Counties | 11.50 | | 8% | | .8% |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Mechanics | 9.91 | .745 | .35 | 4%+a+b | .02 |
| Helpers | 70%JR | .745 | .35 | 4%+a+b | .02 |
| Helpers (Probationary) | 50%JR | | | | |
| GLAZIERS | 7.20 | | | | |
| IRONWORKERS | 10.05 | .55 | 1.00 | | .12 |
| LABORERS: | | | | | |
| Unskilled | 2.97 | | | | |
| Mason tenders & mortar mixers | 3.55 | | | | |
| LATHERS | 9.30 | | | .80 | .05 |
| LINE CONSTRUCTION: | | | | | |
| Linemen; Linemen operators | 12.15 | | 3% | | 1/2% |
| Cable splicers | 13.37 | | 3% | | 1/2% |
| Groundman, 1st 6 months | 7.29 | | 3% | | 1/2% |
| Groundman, 2nd 6 months | 7.90 | | 3% | | 1/2% |
| Groundman, 1 year & over | 8.51 | | 3% | | 1/2% |
| PAINTERS: | | | | | |
| GROUP 1 - Brush | 8.15 | | | | .04 |
| GROUP 2 - Boiler pipe & steel, structural steel, window jacks, roofs, stage work, smoke stack, water towers, boatswain chair | 8.65 | | | | .04 |

DECISION NO. TX79-4006

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| GROUP 3 - Ames tools for dry wall | $ 8.75 | | | | .04 |
| GROUP 4 - Spray work & self-feeding rollers | 8.90 | | | | .04 |
| GROUP 5 - Steam cleaning, sandblasting & hazardous work | 9.25 | | | | .04 |
| PLASTERERS | 9.99 | .60 | .55 | | .01 |
| PLUMBERS & PIPEFITTERS: | | | | | |
| ZONE 1 - Area within a 35 mile radius of Waco including Temple, Marlin, Clifton, Hillsboro & Belton | 9.50 | .30 | .33 | | .03 |
| ZONE 2 - All other areas | 9.90 | .30 | .33 | | .03 |
| ROOFERS: | | | | | |
| GROUP 1 - Slate, tile, asbestos, roofing & siding | 6.95 | | | | .03 |
| GROUP 2 - Composition, built-up, damp & waterproofing | 6.80 | | | | .03 |
| GROUP 3 - Kettlemen | 5.10 | | | | .03 |
| SHEET METAL WORKERS: | | | | | |
| ZONE 1 - Within a radius of 20 miles from the McLennan Co. Court House, Waco | 9.19 | .45 | .44 | | .07 |
| ZONE 2 - Over 20 miles but less than 45 miles including the towns of Hillsboro, Temple, Marlin, Gatesville & Clifton | 9.69 | .45 | .44 | | .07 |
| ZONE 3 - Over 45 miles | 10.19 | .45 | .44 | | .07 |
| SPRINKLER FITTERS | 11.60 | .75 | 1.05 | | .08 |
| TRUCK DRIVERS | 2.90 | | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |

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 A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day



DECISION NO. TX79-4006

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| GROUP 1 | $10.44 | | .40 | | |
| GROUP 2 | 9.37 | | .40 | | |
| GROUP 3 | 8.15 | | .40 | | |
| GROUP 4 | 8.04 | | .40 | | |

GROUP 1 - Heavy Duty Mechanic; Blade Grader - Self-propelled; Bull Clam; Back Filler; Derricks, power operated (all types); Dragline; Push Cat Operator; Euclid Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back Hoe; Crane, Power Operated (all types); Elevating Grader, self-propelled; Hoist, Motor-Driven, two drums or more; Mix Mobile; High-Lifts & loaders, over 1/3 cu. yd. capacity; Winch Truck; Locomotive; Mixer, 14 cu. ft. or over; Paving Mixer (all sizes); Scraper; Trenching Machine (all sizes); Gradall; Foundation Boring Machine; Scoopmobile; Shovel, power operated; Pump Crete Machines; Clam Shell Operator; Rock Crusher Operated on Job; Welding Machine, 6 to 12; Two 125 cu. ft. Compressors; Well points, including installations
GROUP 2 - Blade Grader, Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pulsometer; Truck Crane Driver & Oiler, Combination man; Gasoline or Diesel Driven Welding Machine, 3 to 6; Hoist, Single Drum; Pump, 2½ in. or larger; Pneumatic Roller; High-Lifts & Loaders, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less; Air Compressors, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machines or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator
GROUP 3 - Fireman
GROUP 4 - Oiler

| INCIDENTAL PAVING & UTILITIES (BELL & CORYELL COUNTIES) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Air Tool Man | $ 3.25 | | | | |
| Asphalt Heaterman | 3.75 | | | | |
| Asphalt Raker | 4.30 | | | | |
| Asphalt Shoveler | 4.25 | | | | |
| Batching Plant Scaleman | 4.85 | | | | |
| Carpenter | 4.50 | | | | |
| Carpenter Helper | 3.50 | | | | |
| Concrete Finisher (Paving) | 4.75 | | | | |
| Concrete Finisher Helper (Paving) | 3.50 | | | | |
| Concrete Finisher (Structures) | 4.75 | | | | |
| Concrete Finisher Helper (Structures) | 4.00 | | | | |
| Concrete Rubber | 4.00 | | | | |
| Electrician | 7.00 | | | | |
| Electrician Helper | 4.00 | | | | |
| Form Builder (Structures) | 4.00 | | | | |
| Form Builder Helper (Structures) | 3.25 | | | | |
| Form Setter (Paving & Curb) | 4.50 | | | | |
| Form Setter Helper (Paving & Curb) | 3.75 | | | | |
| Form Setter (Structures) | 4.50 | | | | |
| Form Setter Helper (Structures) | 3.75 | | | | |
| Laborer, Common | 3.00 | | | | |
| Laborer, Utility Man | 3.00 | | | | |
| Mechanic | 4.50 | | | | |
| Mechanic Helper | 4.10 | | | | |
| Oiler | 3.75 | | | | |
| Serviceman | 3.50 | | | | |
| Painter (Structures) | 3.50 | | | | |
| Piledrivermen | 4.00 | | | | |
| Pipelayer (Concrete & Clay) | 4.05 | | | | |
| Pipelayer Helper(Concrete & Clay) | 3.50 | | | | |
| Plumbers: | | | | | |
| Zone 1 - 35 miles from Waco including towns of Temple & Belton | 9.50 | .30 | .33 | | .03 |
| Zone 2 - all area not included in Zone 1 | 9.90 | .30 | .33 | | .03 |
| Powderman | 4.75 | | | | |
| Reinforcing Steel Setter (Structures) | 4.90 | | | | |
| Reinforcing Steel Setter Helper | 3.25 | | | | |
| Sign Erector | 4.65 | | | | |
| Sign Erector Helper | 3.10 | | | | |
| Spreader Box Man | 4.00 | | | | |
| Swamper | 4.00 | | | | |
| Power Equipment Operators: | | | | | |
| Asphalt Distributor | 4.30 | | | | |
| Asphalt Paving Machine | 4.25 | | | | |
| Broom or Sweeper Operator | 3.70 | | | | |
| Bulldozer, 150 HP and Less | 4.00 | | | | |
| Bulldozer, over 150 HP | 4.50 | | | | |
| Concrete Paving Curing Machine | 3.70 | | | | |



| INCIDENTAL PAVING & UTILITIES (BEE & CORYELL COUNTIES) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| Power Equipment Operators (Cont'd): | | | | | |
| Concrete Paving Saw | $ 4.75 | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY) | 4.50 | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over) | 4.95 | | | | |
| Crusher or Screening Plant Op. | 4.20 | | | | |
| Foundation Drill Op. (Truck Mounted) | 4.50 | | | | |
| Foundation Drill Op. Helper | 4.25 | | | | |
| Front End Loader (2½ CY & Less) | 4.00 | | | | |
| Front End Loader (Over 2½ CY) | 4.70 | | | | |
| Motor Grader Op., Fine Grade | 5.00 | | | | |
| Motor Grader Operator | 4.35 | | | | |
| Roller, Steel Wheel (Plant-Mix Pavements) | 4.00 | | | | |
| Roller, Steel Wheel (Other-Flat Wheel or Tamping) | 3.70 | | | | |
| Roller, Pneumatic (Self-Propelled) | 3.45 | | | | |
| Scrapers (17 CY and Less) | 4.00 | | | | |
| Scrapers (Over 17 CY) | 4.50 | | | | |
| Tractor (Crawler Type) 150 HP & Less | 3.10 | | | | |
| Tractor (Crawler Type) over 150 HP | 4.25 | | | | |
| Tractor (Pneumatic) 80 HP & Less | 3.25 | | | | |
| Tractor (Pneumatic) over 80 HP | 3.75 | | | | |
| Traveling Mixer | 4.15 | | | | |
| Trenching Machine, Light | 4.00 | | | | |
| Trenching Machine, Heavy | 4.45 | | | | |
| Wagon Drill, Boring Machine or Post Hole Driller Operator | 3.80 | | | | |
| Truck Drivers: | | | | | |
| Single Axle, Light | 3.50 | | | | |
| Single Axle, Heavy | 3.50 | | | | |
| Tandem Axle or Semitrailer | 3.50 | | | | |
| Weighman (Truck Scales) | 3.00 | | | | |
| Welder | 4.50 | | | | |
| Welder Helper | 3.25 | | | | |

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: TX79-4007

DATE: Date of Publication

Supersedes Decision No. TX78-4087 dated August 25, 1978 in 43 FR 38285

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $10.50 | .80 | .95 | | .07 |
| BOILERMAKERS | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS & STONEMASONS | 10.70 | | .40 | | |
| CARPENTERS: | | | | | |
| ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties: | | | | | |
| Carpenters | 10.30 | | .40 | | .01 |
| Millwrights | 10.65 | | .40 | | .01 |
| ZONE 2 - Childress County: | | | | | |
| Carpenters | 9.87 | .48 | .50 | | .07 |
| Millwrights | 10.37 | .48 | .50 | | .07 |
| CEMENT MASONS | 8.30 | | | | |
| ELECTRICIANS: | | | | | |
| ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties: | | | | | |
| Electricians | 11.08 | .60 | 3%+.25 | | 1/2% |
| Cable splicers | 12.19 | .60 | 3%+.25 | | 1/2% |
| ZONE 2 - Childress County: | | | | | |
| Electricians | 10.50 | .50 | 3% | | 1/10% |
| Cable splicers | 10.75 | .50 | 3% | | 1/10% |
| GLAZIERS | 7.90 | | | a | |
| IRONWORKERS: | | | | | |
| ZONE 1 - Armstrong, Carson, Castro, Childress (excluding southeastern 1/4), Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos. | 9.95 | .55 | 1.15 | | .10 |
| ZONE 2 - Childress Co. (southeastern 1/4): | 9.525 | .55 | 1.00 | | .10 |
| LABORERS: | | | | | |
| GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all unskilled laborers | 5.16 | .53 | .27 | | |
| GROUP 2 - Air tool operator (jackhammer, tamper, brush hammer, chipping hammer, air or electric), sand blasterer, power buggy man, pipelayer (concrete & clay & all non-metallic pipe) & pipewrappers; mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders, asphalt rakers, tampers, well drillers, bell hole men, dumpers, spotters, signal men | 5.32 | .53 | .27 | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| LATHERS | $10.85 | | | | .01 |
| LINE CONSTRUCTION: | | | | | |
| ZONE 1 - Childress County: | | | | | |
| Lineman; Operator | 10.50 | | 3% | | 1/2% |
| Cable splicers | 10.75 | | 3% | | 1/2% |
| Groundman - 1st 6 months | 50%JR | | 3% | | 1/2% |
| Groundman - 2nd 6 months | 60%JR | | 3% | | 1/2% |
| Groundman - 1 year & over | 70%JR | | 3% | | 1/2% |
| ZONE 2 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties: | | | | | |
| Lineman | 11.08 | .60 | 3%+.25 | | 1/2% |
| Cable splicers | 12.19 | .60 | 3%+.25 | | 1/2% |
| Groundman: | | | | | |
| More than 1 year experience | 7.29 | .60 | 3%+.25 | | 1/2% |
| Less than 1 year experience | 6.39 | .60 | 3%+.25 | | 1/2% |
| Operator-hole digger, line truck | 8.48 | .60 | 3%+.25 | | 1/2% |
| Flat bed truck driver | 6.39 | .60 | 3%+.25 | | 1/2% |
| MARBLE MASONS (EXTERIOR) | 10.70 | | .40 | | |
| PAINTERS: | | | | | |
| GROUP 1 - Brush & roller; paper hangers; perfa-tapers | 9.30 | | .50 | | |
| GROUP 2 - Structural steel; swinging stage or chair below 50 ft. | 9.42 | | .50 | | |
| GROUP 3 - Spray & sandblasters | 10.05 | | .50 | | |
| GROUP 4 - Perfa-tape machine op. | 9.55 | | .50 | | |
| PLASTERERS | 10.85 | | | | .01 |
| PLUMBERS & PIPEFITTERS: | | | | | |
| ZONE 1 - shall extend a distance of 25 road miles from the police station in either Amarillo or Borger | 10.37 | .45 | .65 | .60 | |
| ZONE 2 - shall extend a distance of 25 to 50 road miles from either Amarillo or Borger | 10.62 | .45 | .65 | .60 | |
| ZONE 3 - shall extend a distance of 50 road miles & over from either Amarillo or Borger | 10.87 | .45 | .65 | .60 | |
| ROOFERS | 4.50 | | | | |
| SHEET METAL WORKERS | 10.09 | .50 | .55 | | .11 |
| SPRINKLER FITTERS | 11.60 | .75 | 1.05 | | .08 |
| TRUCK DRIVERS: | | | | | |
| 1/2 ton to 3 tons; Ready mix concrete to 3 yds. | 2.90 | | | | |
| 3 to 5 tons; Ready mix concrete over 3 yds. | 3.13 | | | | |
| 5 tons and over | 3.38 | | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |

FOOTNOTE FOR GLAZIERS:

a - Paid Holidays A thru F

PAID HOLIDAYS FOR GLAZIERS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO. TX79-4007

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| GROUP 1 | $ 8.75 | .40 | .50 | | .10 |
| GROUP 2 | 8.25 | .40 | .50 | | .10 |
| GROUP 3 | 6.30 | .40 | .50 | | .10 |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Blade Grader, self-propelled; Clam Shells; Cable Ways; Cranes, power operated (all types); Air Compressors, Pumps, Welding Machines & Light Plants (7 to 12 machines); Derricks, power operated (all types); Draglines; Elevating Graders, self-propelled; Hoist, 2 drum or more; Locomotive; Mixermobiles; Paving Mixers, all types; Pile Drivers; Scrapers; Bulldozers; Side Boom; Cherry Pickers-12½ ton & over; Shovels; Heavy Duty Mechanics; All Welders; All tractors with power attachments; Ditching Machines - crawler type; Farm type Tractor (Loader, 1 yd. & over) with Backhoe; All other equipment of similar nature coming within to Heavy Equipment Classification when power operated

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Cherry Pickers - under 12½ tons; Ditch Witch - J30 and under; Farm type Tractor (Loader under 1 yd.) with Backhoe; Go-Devil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air Compressor and one Tugger; Boilers, 2 or more; Winch Trucks; Front End Scoopmobile, Loader, PayLoader; Blade Grader, towed; Elevators, Building; Fork Lifts; Hoist, single drum or 1 line hoisting (1 tugger); Mixers less than 15 cu. ft.; Rollers; Screening Plants; Crushing Plants; Tractors-Wheel type except when hauling material; All other equipment of similar nature coming within the Light Equipment Classification when power operated

GROUP 3 - Oiler-Fireman-Greaser

SUPERSEDEAS DECISION

STATE: Texas
COUNTY: Taylor
DECISION NO.: TX79-4008
DATE: Date of Publication
Supersedes Decision No. TX78-4017 dated March 10, 1978 in 43 FR 10272
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories.) (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AIR CONDITIONING MECHANICS | $ 4.00 | | | | |
| ASBESTOS WORKERS | 10.83 | .50 | .76 | | .025 |
| BOILERMAKERS | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS | 7.20 | | | | |
| CARPENTERS | 6.00 | .25 | .30 | | |
| CEMENT MASONS | 5.41 | | | | |
| ELECTRICIANS: | | | | | |
| Electricians | 9.80 | .60 | 3% | | 1/4% |
| Cable splicers | 10.05 | .60 | 3% | | 1/4% |
| GLAZIERS | 4.50 | | | | |
| IRONWORKERS | 6.65 | .55 | .50 | | .10 |
| LABORERS: | | | | | |
| Laborers | 3.20 | | | | |
| Mason tenders | 3.80 | | | | |
| LINE CONSTRUCTION: | | | | | |
| Lineman | 9.80 | .60 | 3% | | 1/4% |
| Cable splicers | 10.05 | .60 | 3% | | 1/4% |
| Groundman (over 1 year of experience) | 7.35 | .60 | 3% | | 1/4% |
| Groundman (under 1 year of experience) | 5.88 | .60 | 3% | | 1/4% |
| Equipment operator | 8.04 | .60 | 3% | | 1/4% |
| Flat bed truck driver | 6.08 | .60 | 3% | | 1/4% |
| PAINTERS: | | | | | |
| Brush, tape & bedding, paperhanger | 8.00 | | .35 | | |
| Spray | 8.875 | | .35 | | |
| PLASTERERS | 6.60 | | | | |
| PLUMBERS & PIPEFITTERS | 9.38 | .30 | .65 | | .05 |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Backhoes | 4.75 | | | | |
| Cranes, derricks, draglines | 5.575 | | | | |
| Drilling | 5.575 | | | | |
| Oilers | 4.65 | | | | |
| ROOFERS | 3.94 | | | | |
| SHEET METAL WORKERS | 6.26 | | | | |
| SOFT FLOOR LAYERS | 3.75 | | | | |
| TILE SETTERS | 4.00 | | | | |
| TRUCK DRIVERS | 3.00 | | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |

SUPERSEDEAS DECISION

STATE; Texas

COUNTIES: Cameron, Hidalgo, Starr & Willacy

DECISION NO.: TX79-4009

DATE: Date of Publication

Supersedes Decision No. TX78-4034 dated April 14, 1978 in 43 FR 16121

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $10.74 | .55 | .60 | | |
| BOILERMAKERS | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS | 6.00 | | | | |
| CARPENTERS | 5.11 | | | | |
| CEMENT MASONS | 3.50 | | | | |
| ELECTRICIANS | 6.425 | | | | |
| GLAZIERS | 3.55 | | | | |
| IRONWORKERS: | | | | | |
| Structural & ornamental | 3.50 | | | | |
| Reinforcing | 4.02 | | | | |
| LABORERS: | | | | | |
| Common laborers | 2.90 | | | | |
| Air tool operators | 2.90 | | | | |
| Mason tenders | 2.90 | | | | |
| Mortar mixers | 2.90 | | | | |
| Plasterers' tenders | 2.90 | | | | |
| PAINTERS | 4.19 | | | | |
| PLASTERERS | 7.00 | | | | |
| PLUMBERS & PIPEFITTERS | 8.55 | .55 | .20 | | .05 |
| ROOFERS: | | | | | |
| Roofers | 4.06 | | | | |
| Kettlemen | 4.40 | | | | |
| SHEET METAL WORKERS | 4.23 | | | | |
| SPRINKLER FITTERS | 11.60 | .75 | 1.05 | | .08 |
| TILE SETTERS | 3.75 | | | | |
| TRUCK DRIVERS | 2.90 | | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |

SUPERSEDEAS DECISION

STATE: Texas

COUNTY: Wichita

DECISION NO.: TX79-4010

DATE: Date of Publication

Supersedes Decision No. TX78-4088 dated August 25, 1978 in 43 FR 38287

DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $10.83 | .50 | .76 | | .03 |
| BOILERMAKERS | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS & STONEMASONS | 10.14 | | .60 | | .05 |
| CARPENTERS: | | | | | |
| Carpenters | 9.87 | .48 | .50 | | .07 |
| Millwrights | 10.37 | .48 | .50 | | .07 |
| CEMENT MASONS | 9.12 | | | | |
| ELECTRICIANS: | | | | | |
| Electricians | 10.50 | .50 | 3% | | 1/10% |
| Cable splicers | 10.75 | .50 | 3% | | 1/10% |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Mechanics | 9.91 | .745 | .35 | 4%+a+b | .02 |
| Helpers | 70%JR | .745 | .35 | 4%+a+b | .02 |
| Helpers (Probationary) | 50%JR | | | | |
| GLAZIERS | 4.97 | | | | |
| IRONWORKERS: | | | | | |
| Structural; Ornamental; Reinforcing | 9.40 | .55 | 1.00 | | .10 |
| Ironworkers on jobs 30 miles or more from the city of Wichita Falls | 9.525 | .55 | 1.00 | | .10 |
| LABORERS: | | | | | |
| GROUP 1 - General laborers | 5.145 | .275 | .27 | | |
| GROUP 2 - Pipelayer (concrete & clay); Power buggy operator; Gunite mixer; Cement work mixer; Power tool operator; Bell hole man (piers) | 5.27 | .275 | .27 | | |
| GROUP 3 - Mason tender; Mason mortar mixer; Plasterer tender; Hod carrier; Plasterer mortar mixer; Gunite over 1½" thick; Nozzleman & machine operator | 5.395 | .275 | .27 | | |
| GROUP 4 - Powderman, blaster | 5.645 | .275 | .27 | | |
| LATHERS | 7.65 | | | | .01 |
| LINE CONSTRUCTION: | | | | | |
| Lineman; Lineman operator | 10.50 | | 3% | | 1/2% |
| Cable splicer | 10.75 | | 3% | | 1/2% |
| Groundman, 1st 6 months | 50%JR | | 3% | | 1/2% |
| Groundman, 2nd 6 months | 60%JR | | 3% | | 1/2% |
| Groundman, 1 year & over | 70%JR | | 3% | | 1/2% |

DECISION NO. TX79-4010

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| MARBLE SETTERS | $ 8.61 | | | | |
| PAINTERS: | | | | | |
| Brush | 7.50 | | | | |
| Spray | 8.50 | | | | |
| PLASTERERS | 10.50 | | | | .01 |
| PLUMBERS & PIPEFITTERS: | | | | | |
| ZONE 1 - Within 25 miles of Wichita Falls City limits | 10.30 | .45 | .65 | | .02 |
| ZONE 2 - Over 25 miles of Wichita Falls City limits | 10.80 | .45 | .65 | | .02 |
| ROOFERS | 5.42 | | | | |
| SHEET METAL WORKERS | 10.88 | | | | .07 |
| SOFT FLOOR LAYERS | 5.50 | | | | |
| TERRAZZO WORKERS | 7.50 | | | | |
| TILE SETTERS | 6.50 | | | | |
| TRUCK DRIVERS | 2.90 | | | | |
| WELDERS - receive rate prescribed for craft peforming operation to which welding is incidental. | | | | | |

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 2%; over 5 years - 4% of basic hourly rate
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day



DECISION NO. TX79-4010

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| GROUP 1 | $ 8.175 | .40 | .625 | | .10 |
| GROUP 2 | 9.075 | .40 | .625 | | .10 |
| GROUP 3 | 9.475 | .40 | .625 | | .10 |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated
GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoists, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 feet of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 Machines); Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Galveston & Harris
DECISION NO.: TX79-4011 DATE: Date of Publication
Supersedes Decision No TX78-4084 dated August 25, 1978 in 43 FR 38281
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current highway general wage determination for Paving & Utilities Incidental to Building Construction.)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| ASBESTOS WORKERS | $11.75 | .90 | .90 | | .05 |
| BOILERMAKERS | 11.05 | .80 | 1.00 | | .02 |
| BRICKLAYERS & STONEMASONS | 11.36 | .63 | .60 | | .06 |
| CARPENTERS: | | | | | |
| Carpenters & piledrivermen | 10.60 | .85 | .80 | | .07 |
| Millwrights | 10.985 | .85 | .80 | | .07 |
| CEMENT MASONS: | | | | | |
| Galveston County | 10.60 | .52 | .58 | | |
| Harris County | 10.60 | .52 | .58 | | .08 |
| ELECTRICIANS: | | | | | |
| Galveston County | 12.29 | .50 | 3%+$1.40 | | .06 |
| Harris County | 12.25 | .55 | 10% | | .06 |
| ELEVATOR CONSTRUCTORS: | | | | | |
| Mechanics | 10.35 | .745 | .35 | 4%+a+b | .02 |
| Helpers | 70%JR | .745 | .35 | 4%+a+b | .02 |
| Helpers (Probationary) | 50%JR | | | | |
| GLAZIERS | 11.17 | .60 | .425 | | .01 |
| IRONWORKERS | 10.96 | .55 | 1.15 | | .10 |
| LABORERS: | | | | | |
| GROUP 1 - Common | 7.84 | .45 | .60 | | .02 |
| GROUP 2 - Air tool operator (jackhammer-vibrator); Mason tenders; Pipelayers (concrete & clay); Sandblasters; Power buggy operator | 8.025 | .45 | .60 | | .02 |
| GROUP 3 - Lather tender; Mortar mixers; Plaster tenders & hod carriers | 8.135 | .45 | .60 | | .02 |
| GROUP 4 - Well driller | 8.43 | .45 | .60 | | .02 |
| GROUP 5 - Well driller tender | 7.975 | .45 | .60 | | .02 |
| GROUP 6 - Blaster, powderman | 8.295 | .45 | .60 | | .02 |
| LATHERS (Harris County only) | 11.42 | .70 | .35 | | .02 |
| LINE CONSTRUCTION: | | | | | |
| Lineman & cable splicer | 12.30 | .60 | 3% | | 1/2% |
| Groundmen (1st 6 mos.) | 4.31 | .60 | 3% | | 1/2% |
| Groundmen (2nd 6 mos.) | 5.17 | .60 | 3% | | 1/2% |
| Groundmen | 7.13 | .60 | 3% | | 1/2% |
| MARBLE MASONS: | | | | | |
| Galveston County | 10.21 | | | | |
| Harris County | 10.49 | .63 | .20 | | |
| MARBLE MASONS' FINISHERS | 8.45 | | | | |



DECISION NO. TX79-4011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| PAINTERS: | | | | | |
| East Harris County: | | | | | |
| GROUP 1 - All brush painting, hand rolling and all other work other than that below | $12.13 | | | | |
| GROUP 2 - All pneumatic and electric tools & steam cleaning | 12.485 | | | | |
| GROUP 3 - All tape and float on drywall | 12.225 | | | | |
| GROUP 4 - All paper & vinyl hanging | 12.38 | | | | |
| GROUP 5 - All spray painting, sandblasting & waterblasting | 12.525 | | | | |
| GROUP 6 - Steeple jack work, hot materials | 12.79 | | | | |
| Remainder of Harris County: | | | | | |
| GROUP 1 - All brush painting, hand roller, steam cleaning, all pneumatic tools | 10.595 | .565 | .45 | .40 | .04 |
| GROUP 2 - All spray painting, sandblasting, waterblasting | 10.97 | .565 | .45 | .40 | .04 |
| GROUP 3 - Tape, float & drywall | 10.72 | .565 | .45 | .40 | .04 |
| GROUP 4 - Steeple jack work, hot materials | 11.22 | .565 | .45 | .40 | .04 |
| Galveston County: | | | | | |
| GROUP 1 - Painters on new work | 10.31 | .60 | .50 | .85 | .035 |
| GROUP 2 - Painters on swinging stage work or using materials injurious to the skin | 10.56 | .60 | .50 | .85 | .035 |
| GROUP 3 - Painters on rework & repaint | 9.555 | .60 | .50 | .85 | .035 |
| PIPEFITTERS: | | | | | |
| That part of Galveston County east of the Trinity River | 12.235 | .645 | .70 | | .11 |
| That part of Galveston County west of the Trinity River & all of Harris County | 11.85 | .50 | .70 | | .045 |
| PLASTERERS | 11.30 | .87 | .30 | | .02 |
| PLUMBERS: | | | | | |
| Galveston County | 12.235 | .645 | .70 | | .11 |
| Harris County | 12.37 | .75 | .75 | | .12 |
| ROOFERS | 9.61 | .42 | .35 | .25 | .06 |
| SHEET METAL WORKERS: | | | | | |
| Galveston County | 10.82 | .80 | .50 | .50 | .10 |
| Harris County | 11.41 | .375 | .695 | .42 | .06 |
| SOFT FLOOR LAYERS | 10.53 | .50 | .45 | | .14 |
| SPRINKLER FITTERS | 11.60 | .75 | 1.05 | | .08 |
| TERRAZZO WORKERS: | | | | | |
| Galveston County | 10.21 | | | | |
| Harris County | 10.49 | .63 | .20 | | |
| TERRAZZO WORKERS' FINISHERS: | | | | | |
| Terrazzo workers' finishers | 8.45 | | | | |
| Terrazzo floor machinemen | 8.60 | | | | |
| Terrazzo base machinemen | 8.75 | | | | |

DECISION NO. TX79-4011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| TILE SETTERS: | | | | | |
| Galveston County | $10.21 | | | | |
| Harris County | 10.49 | .63 | .20 | | |
| TILE SETTERS' FINISHERS | 8.45 | | | | |
| TRUCK DRIVERS: | | | | | |
| GROUP 1 - Under 1½ tons; wash, grease, tireman, fuel pump operator when used on construction jobs | 7.84 | | | | |
| GROUP 2 - 1½ thru 2½ tons; dump truck less than 7 yds. | 8.23 | | | | |
| GROUP 3 - Over 2½ tons; farm tractors; fork lifts, floats | 8.45 | | | | |
| GROUP 4 - Euclids (not self-loading) | 8.61 | | | | |
| GROUP 5 - Warehousemen | 8.10 | | | | |
| GROUP 6 - Material checkers; pick-up drivers | 9.14 | | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:

a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates

b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:

A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; G-the Friday after Thanksgiving Day; F-Christmas Day



DECISION NO. TX79-4011

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| POWER EQUIPMENT OPERATORS | | | | | |
| GROUP 1 | $10.94 | .70 | .85 | | .07 |
| GROUP 2 | 9.24 | .70 | .85 | | .07 |
| GROUP 3 | 8.66 | .70 | .85 | | .07 |
| GROUP 4 | 8.47 | .70 | .85 | | .07 |

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick - power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more, Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel Driven Welding Machines, 7 or more; Pumpcrete Machine Operator; Turnapulls; DW-10 Caterpillar, S-18 Euclid and similar Tractors; Asphalt Plant Mixer Operator on job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

GROUP 2 - Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader, Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck Crane Driver; Gasoline or diesel Driven Welding Machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or Diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A Light Equipment Operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bastrop, Blanco, Caldwell, Fayette, Hays, Lee, Travis & Williamson

DECISION NO.: TX79-4012

DATE: Date of Publication

Supersedes Decision No. TX77-4026, dated February 18, 1977, in 42 FR 10270

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AIR CONDITIONING & HEATING MECHANICS | $ 3.65 | | | | |
| BRICKLAYERS | 5.88 | | | | |
| CARPENTERS | 4.43 | | | | |
| CEMENT MASONS | 4.81 | | | | |
| ELECTRICIANS | 5.82 | | 1% | | .8% |
| FIBERGLASS DUCT INSTALLERS | 3.16 | | | | |
| FORM SETTERS | 4.07 | | | | |
| INSULATION INSTALLERS | 3.00 | | | | |
| IRONWORKERS, REINFORCING | 2.90 | | | | |
| LABORERS | 2.90 | | | | |
| PAINTERS: | | | | | |
| Brush | 4.16 | | | | |
| Spray | 4.81 | | | | |
| PLUMBERS & PIPEFITTERS | 5.50 | | | | |
| ROOFERS: | | | | | |
| Roofers | 3.50 | | | | |
| Kettlemen | 3.00 | | | | |
| SHEET METAL WORKERS | 3.75 | | | | |
| SOFT FLOOR LAYERS | 4.00 | | | | |
| TILE SETTERS | 4.81 | | | | |
| TILE SETTERS' FINISHERS | 3.10 | | | | |
| TRUCK DRIVERS | 2.90 | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Asphalt paving machines | 3.50 | | | | |
| Bulldozers | 3.75 | | | | |
| Front end loaders | 3.31 | | | | |
| Motor graders | 4.00 | | | | |
| Rollers | 2.90 | | | | |
| Scrapers | 3.50 | | | | |

SUPERSEDEAS DECISION

STATE: Texas

COUNTY: Bexar

DECISION NO.: TX79-4013

DATE: Date of Publication

Supersedes Decision No. TX77-4172, dated August 5, 1977, in 42 FR 39883.

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AIR CONDITIONING INSTALLERS | $ 3.50 | | | | |
| BRICKLAYERS | 7.27 | .30 | .30 | | .05 |
| CARPENTERS | 4.89 | | | | |
| CEMENT MASONS | 4.00 | | | | |
| DUCT INSTALLERS | 4.60 | | | | |
| ELECTRICIANS: | | | | | |
| Single or multiple family dwellings or apartments up to and including 8 units not exceeding 2 stories | 6.35 | .30 | 1% | | 1/2% |
| Over 8 units or over 2 stories | 9.23 | .30 | 1% | | 1/2% |
| FORM SETTERS | 4.50 | | | | |
| GLAZIERS | 5.60 | | | | |
| INSULATION INSTALLERS | 4.50 | | | | |
| LABORERS | 2.90 | | | | |
| LATHERS | 7.955 | | | | |
| PAINTERS | 4.63 | | | | |
| PLASTERERS | 6.65 | | | | |
| PLUMBERS & PIPEFITTERS | 7.70 | | | | |
| ROOFERS | 4.53 | | | | |
| SHEETROCK INSTALLERS | 5.00 | | | | |
| SOFT FLOOR LAYERS | 5.00 | | | | |
| TAPERS | 4.00 | | | | |
| TILE SETTERS | 4.73 | | | | |
| TRUCK DRIVERS | 3.00 | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Foundation drill operator (crawler mounted) | 3.25 | | | | |
| Front end loader | 3.60 | | | | |
| Tractor | 3.75 | | | | |

SUPERSEDEAS DECISION

STATE: Texas
COUNTIES: Dimmit, Jim Hogg, LaSalle, Maverick, Webb, Zapata & Zavala
DECISION NO.: TX79-4014
DATE: Date of Publication
Superseded Decision No. TX76-4039, dated February 13, 1976, in 41 FR 7014
DESCRIPTION OF WORK: Building (including Residential) Construction

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AIR CONDITIONING MECHANIC | $ 4.45 | | | | |
| BRICKLAYERS | 4.85 | | | | |
| CARPENTERS | 3.70 | | | | |
| CEMENT MASONS | 3.20 | | | | |
| ELECTRICIANS | 4.20 | | | | |
| GLAZIERS | 3.14 | | | | |
| IRONWORKERS | 2.90 | | | | |
| LABORERS: | | | | | |
| Laborers | 2.90 | | | | |
| Asphalt rakers | 2.90 | | | | |
| Mason tenders | 2.90 | | | | |
| PAINTERS, BRUSH | 4.30 | | | | |
| PLUMBERS & PIPEFITTERS | 4.35 | | | | |
| ROOFERS: | | | | | |
| Roofers | 4.00 | | | | |
| Kettlemen | 2.90 | | | | |
| SHEET METAL WORKERS | 4.33 | | | | |
| SOFT FLOOR LAYERS | 4.30 | | | | |
| TRUCK DRIVERS | 2.90 | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Asphalt finishers | 2.90 | | | | |
| Backhoes | 2.90 | | | | |
| Bulldozers | 2.90 | | | | |
| Cranes | 2.90 | | | | |
| Front end loaders | 2.90 | | | | |
| Motor graders | 2.90 | | | | |
| Rollers | 2.90 | | | | |
| Scrapers | 3.00 | | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | |

SUPERSEDEAS DECISION

STATE: Texas
COUNTY: Tarrant
DECISION NO.: TX79-4015
DATE: Date of Publication
Supersedes Decision No. TX77-4029, dated February 18, 1977, in 42 FR 10271.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | Education and/or Appr. Tr. |
| AIR CONDITIONING & HEATING MECHANICS | $ 4.68 | | | | |
| BRICKLAYERS | 6.00 | | | | |
| CARPENTERS | 4.50 | | | | |
| CEMENT MASONS | 4.50 | | | | |
| ELECTRICIANS | 4.50 | | | | |
| IRONWORKERS, REINFORCING | 3.00 | | | | |
| LABORERS: | | | | | |
| Laborers | 2.90 | | | | |
| Mason tenders | 4.13 | | | | |
| Plasterers' tenders | 5.30 | | | | |
| LATHERS | 8.06 | .25 | | | .04 |
| PAINTERS, BRUSH | 4.68 | | | | |
| PLASTERERS | 8.335 | | | | .01 |
| PLUMBERS & PIPEFITTERS | 4.75 | | | | |
| ROOFERS | 3.50 | | | | |
| SHEET METAL WORKERS | 3.00 | | | | |
| SOFT FLOOR LAYERS | 4.50 | | | | |
| TILE SETTERS | 5.00 | | | | |
| TILE SETTERS' FINISHERS | 3.50 | | | | |
| TRUCK DRIVERS | 2.90 | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | |
| Backhoes | 3.50 | | | | |
| Forklifts | 3.50 | | | | |
| Loaders | 3.66 | | | | |
| Motor graders | 3.60 | | | | |

[FR Doc. 79-355 Filed 1-4-79; 8:45 am]

federal register

FRIDAY, JANUARY 5, 1979
PART XI


# DEPARTMENT OF LABOR

## Employment and Training Administration

■

# CLASSIFYING LABOR SURPLUS AREAS

## Preference in Federal Procurement

[4510-30-M]

Title 20—Employees' Benefits

## CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

## PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

## PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

## Preference in Federal Procurement Under Defense Manpower Policy DMP-4A and Executive Orders 12073 and 10582

MODIFICATION OF RULES FOR CLASSIFYING LABOR SURPLUS AREAS

NOTE.—This document originally appeared in the FEDERAL REGISTER for January 3, 1979. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Labor Department. (See OFR notice 41 FR 32914, August 6, 1976.)

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is modifying its rules for classifying labor surplus areas under Defense Manpower Policy DMP-4A and Executive Order 10582 to reflect the promulgation of Executive Order 12073 and changes being made as a result of comments received.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Davis A. Portner, Office of Policy Evaluation and Research, 601 "D" Street, N.W., Room 9420, Washington, D.C. 20213, (202) 376-6274.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Defense Manpower Policy No. 4A (DMP-4A), 32A CFR Part 134, became effective November 3, 1977. The purpose of DMP-4A is to encourage the purchase of goods and services by the Federal Government and the placement of Federal facilities in areas of labor surplus. Under DMP-4A the Secretary of Labor is required to classify labor surplus areas and disseminate this information for the use of all Federal agencies in directing procurement activity and locating new plants or facilities. Firms which agree to perform most of the work in labor surplus areas are eligible for preference in the award of procurement contracts and grants and the execution of agreements.

On March 3, 1978, the Department of Labor published in the FEDERAL REGISTER final regulations for classifying labor surplus areas under Defense Manpower Policy DMP-4A and Executive Order 10582. In order to implement DMP-4A as rapidly as possible, the Department shortened the period for comment on the proposed regulations and accepted comment during the 60 day period subsequent to the publication date of the final regulations.

On August 16, 1978 the President signed Executive Order 12073—Federal Procurement in Labor Surplus Areas. This executive order strengthened DMP-4A and provided additional authority for the Department's implementing regulations in 20 CFR Part 654.

At this time the Department is making revisions and corrections to these regulations primarily as a result of the comments which were received and the promulgation of the executive order. The changes also reflect the Department's experience under these regulations.

SUMMARY OF CHANGES

The primary objective of these changes is to more effectively accomplish the purpose of DMP-4A to target Federal procurement to areas of greatest need. Effective targeting is a goal of the strengthened procedures in E.O. 12073 and a central concern of the comments received on the Department's regulations.

A review of operating data indicates that the present criteria used for classifying labor surplus areas are too broad for the effective targeting of Federal funds. Based on comments received and internal analysis, the Department of Labor has concluded that the criteria for classifying labor surplus areas should be focused more sharply on communities with problems of chronically high unemployment which have the greatest need of the labor surplus set aside program. To accomplish this objective the following changes are being made in the system for defining program eligibility.

1. In order to focus programs more sharply on the community level, labor surplus will no longer be defined in terms of broad geographic areas in which there is a concentration of economic activity or labor demand and in which workers can generally change jobs without changing their residences. Instead, the conditions for defining labor surplus will be in terms of discrete civil jurisdictions, i.e., counties, county equivalents, and cities with a population of at least 50,000. In this way, funds will be directed to specific localities with high unemployment rather than to all jurisdictions in any given metropolitan area, not all of which suffer from the same degree of unemployment.

2. In order to target procurement contracts to localities with the greatest degree of unemployment, eligibility will be limited to those jurisdictions which have an average unemployment rate which is 120 percent of the national unemployment rate or higher during the reference period.

3. The reference period used in making the classifications will be an average of the previous two calendar years. By using an average of 24 months of unemployment data in place of the present 12 months, it should be possible to target contracts into communities experiencing high structural unemployment.

4. Eligibility status will be determined annually (rather than quarterly) effective each May 1. The purpose of this change is to provide more stability in the contracting process.

5. In classifying labor surplus areas for those jurisdictions in standard metropolitan statistical areas for which the current population surveys (CPS) were used to determine the annual unemployment data prior to January 1, 1978, the Assistant Secretary shall make determinations of the average unemployment rates in such jurisdictions. The purpose of this change is to prevent these areas from being penalized by the change in the unemployment estimating procedures involving the discontinuation of separate CPS estimates for these areas.

Since these regulations involve a matter relating to "public property, loans, grants, benefits, or contracts" they are exempt from the rulemaking requirements of the Administrative Procedure Act. (5 U.S.C. § 553(a)(2)). Moreover, the Secretary of Labor has determined that it is in the public interest to publish these regulations in final form so that program implementation may move more rapidly without disruption of the Federal procurement process. This finding constitutes a waiver of the Department's regulation in 29 CFR 2.7. These rules will therefore become effective January 1, 1979.

Accordingly, Parts 651 and 654, Chapter V, Title 20 of the Code of Federal Regulations are amended as follows:

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## PART 651—GENERAL PROVISIONS GOVERNING THE FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

1. The table of contents for Part 654—Special Responsibilities of the Employment Service System is amended to read as follows:

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§ 651.6 Consolidated table of contents for Parts 651-658.



## PART 654—SPECIAL RESPONSIBILITIES OF THE EMPLOYMENT SERVICE SYSTEM

2. Part 654, in its entirety, is amended to read as follows:



AUTHORITY: Pub. L. 95-89; 50 U.S.C. App. 2061, et seq.; 41 U.S.C. 10a et seq.; 29 U.S.C. 49 et seq., E.O. 12073; E.O. 11725; E.O. 11051, as amended; E.O. 10582; E.O. 10480; 32A CFR Part 134.

### Subpart A—Responsibilites Under Defense Manpower Policy No. 4A (32A CFR Part 134) and Executive Order 12073

§ 654.1 Purpose of subpart.

This subpart implements the responsibilities of the Secretary of Labor in classifying labor surplus areas in accordance with Defense Manpower Policy No. 4A of the Federal Preparedness Agency, General Services Administration (32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas (DMP-4A)), and Executive Order 12073 (Federal Procurement in Labor Surplus Areas). The Secretary of Labor has delegated responsibilites to the Assistant Secretary, Employment and Training Administration.

§ 654.2 Description of DMP-4A.

(a) Defense Manpower Policy No. 4A (DMP-4A) consists of the Federal regulations at 32A CFR Part 134—Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas.

(b) The DMP-4A regulations were issued pursuant to Pub. L. 95-89: Executive Order 10480; Executive Order 11051, as amended; and Executive Order 11725. Implementation of the regulations is the responsibility of the Federal Preparedness Agency of the General Services Administration.

(c) The purpose of DMP-4A is to encourage the purchase of goods and services by the Federal Government and the placement of Federal facilities in areas of labor surplus.

(d) Under DMP-4A, the Secretary of Labor is required to:

(1) Classify labor surplus areas and disseminate this information on a timely basis to Federal departments and agencies.

(2) In cooperation with State and local authorities and the Secretary of Commerce, provide labor-market data and related economic information in efforts to assist in the initiation of industrial expansion programs in labor surplus areas.

(3) Identify occupations and skills which are in surplus supply within labor surplus areas and make this information available to firms requiring such occupations and skills and interested in establishing new plants and facilities.

(4) Identify occupations and skills for which labor will be needed by new or expanding industries and industries that expand during a mobilization; and, in collaboration with other Government agencies, make assistance available to labor surplus area institutions and users in developing on-the-job, apprentice, or other training programs for developing skills of the work force.

(5) Through the affiliated State employment services, receive job openings on a voluntary basis and/or under the mandatory listing program provided for by section 2012 of Title 38 of the United States Code and by Executive Order 11701, and refer qualified unemployed workers to concerns in labor surplus areas.

(e) Under DMP-4A, all Federal agencies are required to:

(1) Use their best efforts to award all procurement contracts and grants, and execute agreements, greater than $2,500 to concerns that will perform a substantial proportion of the manufacturing, production, or appropriate services on those contracts within labor surplus areas, to the extent that procurement objectives will permit.

(2) Ensure that firms in labor surplus areas that are on appropriate bidders mailing lists are given the opportunity to submit offers on all procurements for which they are qualified. Whenever the number of firms on a bidders mailing list is excessive in relation to size and type of procurement, a representative number of firms from labor surplus areas shall be given the opportunity to submit offers.

(3) Establish programs to encourage prime contractors to award subcontracts to firms that agree to perform a substantial proportion of the production, manufacturing or appropriate services on those subcontracts in labor surplus areas.

(4) Cooperate with other Federal departments and agencies in achieving the objectives of this policy.

(f) Under DMP-4A, the Secretary of Commerce is required to:

(1) In cooperation with State economic development agencies, the Secretary of the Defense, the Administrator of General Services, and the Administrator of the Small Business Administration, assist concerns which have agreed to perform contracts in labor surplus areas in obtaining Government procurement business by: (A) Providing such concerns with timely information on proposed Government procurements; and (B) maintaining current information on the manufacturing capabilities of such concerns with respect to Governement procurement and disseminating such information to Federal departments and agencies.

(2) Urge concerns planning new production facilities to consider the advantages of locating in labor surplus areas.

(3) Provide technical advice and counsel to groups and organizations in labor surplus areas on planned industrial parks, industrial development organizations, expanding tourist business, and available Federal aids.

(g) Under DMP-4A, the Administrator of the Small Business Administration is required to make available to small business concerns in labor surplus areas all of its services, endeavor to ensure opportunity for maximum participation by such concerns in Government procurement, and give consideration to the needs of these concerns in the making of joint small business set asides with Government procurement agencies.

(h) Under DMP-4A, there is continued in operation within the Federal Preparedness Agency the Surplus Manpower Committee. The Committee is chaired by the Director of the Federal Preparedness Agency or the Director's designee. The Committee

includes representation from the Office of Federal Procurement Policy; Department of Defense; Department of Commerce; Department of Labor; General Services Administration; Small Business Administration; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of Energy; and other interested departments and agencies. The Committee advises the Director, Federal Preparedness Agency, on policies, procedures, and activities in existence or needed to carry out the purpose of DMP-4A.

(i) When an entire industry that sells a significant portion of its production to the Government is generally depressed or has a significant proportion of its production units located in a labor surplus area, the Committee may make appropriate recommendations relative to that industry in lieu of recommendations relative to specific geographical areas. In such cases, after notice and hearing of interested parties, the Director, Federal Preparedness Agency, gives consideration to appropriate measures applicable to the entire industry.

(j) Under DMP-4A, all Federal agencies are required to give consideration to labor surplus areas in the selection of sites for Government-financed facilities, including expansion, to the extent that such selection is consistent with existing law and essential economic and strategic factors that must also be taken into account.

### § 654.3 Description of Executive Order 12073.

Executive Order 12073 also requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under this order for classifying and designating labor surplus areas.

### § 654.4 Definitions.

(a) "Assistant Secretary" shall mean Assistant Secretary for Employment and Training, U.S. Department of Labor.

(b) "Civil jurisdiction" shall mean:

(1) Cities of 50,000 or more population on the basis of the most recently available Bureau of the Census estimates; or

(2) Towns and townships in the States of New Jersey, New York, Michigan, and Pennsylvania of 50,000 or more population and which possess powers and functions similar to cities; or

(3) All counties, except those counties which contain any of the types of political jurisdictions defined in (1) and (2) above.

(4) All other counties are defined as "balance of county" (i.e., total county less component cities and townships identified in (1) and (2) above).

(5) County equivalents which are towns in the States of Massachusetts, Rhode Island and Connecticut.

(c) "Labor surplus area" shall mean a civil jurisdiction that, in accordance with the criteria specified in § 654.5, has been classified as a labor surplus area for purposes of Defense Manpower Policy No. 4A.

(d) "Reference period" shall mean the two year period ending December 31 of the year prior to the May 1 annual date of eligibility determination.

### § 654.5 Classification of labor surplus areas.

(a) *Basic criteria.* The Assistant Secretary shall classify a civil jurisdiction as a labor surplus area whenever, as determined by the Bureau of Labor Statistics, the average unemployment rate for the civilian labor force in the civil jurisdiction for the reference period is (1) 120 percent of the national average unemployment rate or higher for the reference period as determined by the Bureau of Labor Statistics, or (2) 10 percent or higher: *Provided, however,* That no civil jurisdiction shall be classified as a labor surplus area if the average unemployment rate for the reference period is less than 6.0 percent.

(b) In classifying civil jurisdictions within those standard metropolitan statistical areas and for central cities for which current population surveys (CPS) were used to determine annual unemployment data prior to January 1, 1978, the Assistant Secretary shall, until the end of Fiscal Year 1981, make determinations of the average unemployment rates in such jurisdictions so as to assure that eligibility is not denied by the termination of the use of such surveys.

(c) *Criteria for exceptional circumstances.* The Assistant Secretary, upon petition submitted by the appropriate State employment security agency, may classify a civil jurisdiction as a labor surplus area without regard to the reference period, whenever the civil jurisdiction meets or is expected to meet the unemployment tests established under § 654.5 (a) or (b) as a result of exceptional circumstances. For purposes of this paragraph, "exceptional circumstances" shall mean catastrophic events such as natural disasters, plant closings, and contract cancellations expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors.

### § 654.6 Termination of classification.

(a) *Basic procedure.* The Assistant Secretary shall terminate the classification of a civil jurisdiction as a labor surplus area after any year in which the Assistant Secretary determines that the criteria established under § 654.5 (a) and (b ) are no longer met.

(b) *Procedure for exceptional circumstances.* The Assistant Secretary shall terminate the classification of a civil jurisdiction classified as a labor surplus area pursuant to the provisions of § 654.5(c) after any year in which the Assistant Secretary determines that the exceptional circumstances criteria of that paragraph are no longer met.

### § 654.7 Publication of area classifications.

The Assistant Secretary shall publish annually a list of labor surplus areas together with geographic descriptions thereof.

### § 654.8 Services to firms and individuals in labor surplus areas.

To carry out the purposes and policy objectives of Defense Manpower Policy No. 4A and Executive Order 10582, the Assistant Secretary shall cooperate with and assist the State employment service agencies and the Secretary of Commerce, as appropriate to:

(a) Provide relevant labor market data and related economic information to assist in the initiation of industrial expansion programs in labor surplus areas;

(b) Identify upon request the skills and numbers of unemployed persons available for work in labor surplus areas, providing such information to firms interested in establishing new plants and facilities or expanding existing plants and facilities in such areas;

(c) Identify the occupational composition and skill requirements of industries contemplating locating in labor surplus areas and make such information available to training and apprenticeship agencies and resources in the community for purposes of appropriate training and skill development;

(d) Identify unemployed individuals in need of, and having the potential for, training in occupations and skills required by new or expanding industries and refer such individuals to appropriate training opportunities;

(e) Receive job openings on a voluntary basis and/or under the mandatory listing program provided by 38 U.S.C. 2012 and Executive Order 11701 and refer qualified unemployed workers to such openings, making appropriate efforts to refer to such openings qualified individuals who reside in the labor surplus area.

### § 654.9 Filing of employment service-related complaints.

Employment service-related complaints arising under Subpart A of this Part may be filed directly with the ap-

propriate Department of Labor regional office in accordance with the provisions at 20 CFR § 658.420–423. For purpose of § 658.421, a complainant filing a complaint under this subsection shall be deemed to have exhausted the State agency administrative remedies set forth at 20 CFR § 658.410–416.

## Subpart B—Responsibilities Under Executive Order 10582

### § 654.11 Purpose of subpart.

This subpart implements the responsibilities of the Secretary of Labor in determining areas of substantial unemployment in accordance with Executive Order 10582 issued pursuant to the Buy American Act, 41 U.S.C. 10a et seq.

### § 654.12 Description of Executive Order 10582.

(a) Under the Buy American Act, heads of executive agencies are required to determine, as a condition precedent to the purchase by their agencies of materials of foreign origin for public use within the United States, (1) that the price of like materials of domestic origin is unreasonable, or (2) that the purchase of like materials of domestic origin is inconsistent with the public interest.

(b) Section 3(c) of Executive Order 10582 issued pursuant to the Buy American Act permits executive agencies to reject a bid or offer to furnish materials of foreign origin in any situation in which the domestic supplier, offering the lowest price for furnishing the desired materials, undertakes to produce substantially all of the materials in areas of substantial unemployment, as determined by the Secretary of Labor.

### § 654.13 Determination of areas of substantial unemployment.

An area of substantial unemployment, for purposes of Executive Order 10582, shall be any area classified as a labor surplus area at § 654.5 of this Part pursuant to the procedures set forth at Subpart A of this Part.

### § 654.14 Filing of employment service-related complaints.

Employment service-related complaints arising under Subpart B of this Part may be filed directly with the appropriate Department of Labor regional office in accordance with the provisions at 20 CFR § 658.420–423. For purposes of §658.421, a complainant filing a complaint under this subsection shall be deemed to have exhausted the State agency administrative remedies set forth at 20 CFR § 658.410–416.

## Subpart C—Transition Provisions

### § 654.21 Interim classifications

The transition from the quarterly classification of the March 3, 1978 regulations to the new annual classification system will not be fully accomplished until May 1, 1979. During the interim period, from January 1, 1979 through April 30, 1979, the list of labor surplus areas will be derived as follows:

(a) the list of labor surplus areas under the March 3, 1978 regulations for the quarter ending December 31, 1978 will remain in effect;

(b) the list will be supplemented by any additional labor surplus areas which would have qualified under the March 3, 1978 regulations for the first quarter of calendar year 1979; and

(c) upon petition submitted by the appropriate State employment security agency the Assistant Secretary may classify any civil jurisdiction which meets the basic provisions of § 654.5, as amended, based on the most recent satisfactory 12 months unemployment data.

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

RAY MARSHALL,
*Secretary of Labor.*

[FR Doc. 79-397 Filed 1-2-79; 9:23 am]

federal register

FRIDAY, JANUARY 5, 1979
PART XII


# DEPARTMENT OF ENERGY

## Economic Regulatory Administration

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# SPECIAL RULE FOR TEMPORARY PUBLIC INTEREST

## Proposed Exemption for use of Natural Gas by Existing Powerplants under the Powerplant and Industrial Fuel Use Act of 1978

[6450-01-M]

## DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 508]

[Docket No. ERA-R-79-1]

## PROPOSED SPECIAL RULE FOR TEMPORARY PUBLIC INTEREST

### Exemption for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing this special rule under the authority of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or "the Act"). In general, FUA will become effective on May 8, 1979 (180 days after the date of enactment). This special rule proposes criteria and expedited procedures for owners and operators of existing powerplants to petition for a temporary public interest exemption from the prohibitions against the use of natural gas contained in Section 301(a)(2) and (3) of the FUA.

DATES: Comments by: March 9, 1979. Request to speak by: January 19, 1979. Hearing date: January 26, 1979, 9:30 a.m.

ADDRESSES: Send comments and requests to speak to: Department of Energy, Public Hearing Management, Docket No. ERA-R-79-1, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

Hearing location: Department of Energy, Room 2105, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170;

Stephen M. Stern (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 2130, 2000 M Street, N.W., Washington, D.C. 20461, (202) 632-9630;

Barton R. House (Fuels Regulation—Program Office), Economic Regulatory Administration, Department of Energy, Room 6128I, 2000 M Street, N.W., Washington, D.C. 20401, (202) 254-3905;

James H. Heffernan (Office of General Counsel), Department of Energy, Room 6144, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9296.

SUPPLEMENTARY INFORMATION:



### I. Background

After May 8, 1979, Section 301(a) of the Fuel Use Act (Pub. L. 95-620) will prohibit an existing powerplant from using natural gas* as its primary energy source on and after January 1, 1990. Between May 8, 1979, and January 1, 1990, an existing powerplant may only use natural gas if it used that fuel as a primary energy source in calendar year 1977 and then in no greater proportion than the average quantities used in the base years 1974-1976.

Currently, additional supplies of natural gas are available to many gas systems in the U.S. as compared to those available in the past several years. Propane supplies also appear abundant at this time. Although the availability of natural gas supplies varies among systems, the new national energy legislation, particularly the Natural Gas Policy Act of 1978, Pub. L. 95-621 (NGPA) enchances the prospect for continued near-term improvement of the domestic natural gas supply. The expansion of domestic natural gas supply also reflects the increased rate of gas well drilling, conservation practices by natural gas consumers, and the switching of curtailed gas customers to other fuels, predominantly fuel oils. Switching to oil has tended to increase dependence on foreign crude oil and petroleum products.

The NGPA unifies interstate and intrastate markets for natural gas sales, provides for higher prices, and relaxes the impediments to moving natural gas from the intrastate to the interstate market in four new and important respects. First, section 311(a) of the NGPA allows for the transportation of intrastate gas by interstate pipelines. Second, section 311(b) allows for the sale of natural gas by intrastate pipe-lines to interstate pipelines or their distribution company customers. Third, section 312 allows intrastate pipelines to assign their right to receive surplus natural gas to interstate pipelines or distribution companies. In each of these cases, the intrastate pipelines would remain free of regulation under the Natural Gas Act (15 U.S.C. Section 711 *et seq.*). Fourth, section 314 declares unenforceable any contract provision for the first sale of natural gas which prohibits the comingling of natural gas covered by the NGPA with that subject to the Federal Energy Regulatory Commission's (FERC) jurisdiction under the Natural Gas Act. The FERC published a rule December 1, 1978 (43 FR 56537) implementing section 311(a) and 312. On November 15, 1978 (43 FR 53270) the FERC published a proposed rule in regard to section 311(b), and on December 1, 1978 (43 FR 56521, 56529) indicated its intent to issue a final section 311(b) rule by March 1, 1979.

For the interim period prior to March 1, 1979, the FERC revised on December 1, 1978 (43 FR 56537) its 60-day emergency purchase regulations to permit easier access to intrastate emergency natural gas supplies by interstate pipelines and their customers.

Due in a large part to the curtailment of natural gas supplies in recent years, many lower priority natural gas customers, especially industrial firms and electric utilities, have been using middle distillate and other fuel oils to replace or supplement their natural gas supplies. New demand has increased competition for the available supply of middle distillates.

### II. Policy

The near-term use of additional natural gas and propane instead of middle distillate and other fuel oils will tend to reduce oil imports. Such shifts can also improve air quality, particularly in urban areas, ease the pressure on middle distillate supplies and increase inter-fuel competition.

In these circumstances the Department of Energy encourages natural gas users who have switched from natural gas to petroleum, particularly middle distillates, as well as other industrial users of middle distillates, to switch to natural gas or propane where practicable and allowed by State or other governing laws and regulations.

The DOE also urges natural gas systems, subject to the necessary State or other regulatory approvals, to make natural gas supplies available to end-use customers wishing to switch from middle distillates. However, DOE does not intend that gas acquired from SNG plants using naphtha as a feedstock be used for this purpose.

Individual gas systems which would serve customers contemplating the switch from oil to natural gas should continue to ensure that natural gas supplies are sufficient to protect deliveries to higher priority customers (e.g., residential, agricultural, commercial, industrial process, and feedstock use) before providing natural gas to customers switching from oil. This protection should include the maintenance of sufficient natural gas storage supplies to meet the requirements of higher priority customers if colder

*As used in FUA, the term "natural gas" includes propane and other forms of liquid petroleum gas.

than normal winter weather occurs and to meet contingencies related to loss of scheduled natural gas supplies. Customers switching to natural gas should retain their capability to use another fuel.

DOE seeks immediate reduction of the use of middle distillates (including kerosene-base jet fuel) in existing facilities, including electric utility gas turbines. To the extent even more natural gas is or becomes available than is necessary to replace middle distillates, national energy policy favors its use to replace heavy fuel oil imports.

DOE continues to prefer that industrial facilities and electric utilities use coal or other alternate fuels rather than either oil or natural gas. Such increased use of coal, uranium, renewables and other alternate fuels will make more natural gas available for existing facilities and thereby further decrease petroleum consumption.

## III. Proposed Special Rule

In general, FUA is not effective until May 8, 1979. Before that date, the prohibitions under Section 301(a) (2) or (3) against the use of natural gas or the increased use of natural gas consumption by existing powerplants above that allowed by FUA do not apply. FUA contains no comparable statutory prohibition against natural gas use by major fuel-burning installations.

This proposed special rule pertains to the temporary public interest exemption authorized by Section 311(e) of FUA and provides an expedited mechanism for powerplants which will be prohibited after May 8, 1979, under Section 301(a) (2) or (3), from using natural gas or increasing their natural gas consumption above that allowed by FUA, to continue or increase such natural gas consumption in order to displace consumption of middle distillates. FUA authorizes a temporary public interest exemption for a maximum period of up to five years. Generally, ERA expects to grant, and extend, 1 year exemptions from year-to-year.

ERA is also considering such an expedited exemptions mechanism to encourage the displacement of additional petroleum products. We invite your comments as to the appropriate scope of this special rule, in particular whether it should be used only to displace middle distillates, or, in the alternative, to displace all petroleum products.

ERA anticipates receiving petitions under the provisions of this special rule at any time after publication of the final rule. ERA intends to complete its consideration of such petitions as expeditiously as possible. To facilitate such expeditious consideration ERA intends to publish notice of such petitions in the Federal Register as required by Section 701(c) of FUA, together with a proposed order to grant or deny the petition. During the required public comment period of 45 days following publication, interested persons will be able to submit to ERA comments addressed to both the request contained in the petition and ERA's proposed action contained in the proposed order. After evaluation of the information developed through such administrative process and modification, if any, of its proposed order, ERA will publish its final order. Such final orders, if published prior to the effective date of FUA (May 8, 1979), will not take effect until May 8, 1979.

ERA is proposing not to require submission of a Fuels Decision Report along with a petition for a temporary public interest exemption under this special rule since an alternate fuels analysis is not necessary. Since ERA's review and evaluation of a petition for exemption under this special rule will not create a significant administrative burden, ERA also proposes not to require filing fees.

## IV. Comments and Public Hearing Procedures

A. *Written comments.* ERA invites you to participate in this rulemaking by submitting data, views or arguments with respect to the issues set forth in this Notice. Comments should be submitted to the address indicated in the "ADDRESSES" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Special Rule Under FUA, Docket No. ERA-R-79-1." You should submit fifteen copies. All comments received will be available for public inspection in the DOE Reading Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. We will consider all comments received by March 9, 1979.

You should identify separately any information or data you consider to be confidential and submit them in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. *Public hearing.* 1. *Request procedure.* The time and place for the hearing is indicated in the "DATES" and "ADDRESSES" section of this preamble. If necessary to present all testimony, the hearing will be continued at 9:30 a.m. of the next business day following the first day of the hearing.

You may write to request an opportunity to speak at the hearing. You should provide a phone number where we may contact you through the day before the hearing.

We will notify each person selected to be heard before 4:30 p.m., January 24, 1979.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. We may limit the time allotted each speaker, based on the number of persons who ask to be heard.

We will designate a DOE official to preside at the hearing, which will not be judicial or evidentiary-type in nature. Only those conducting the hearing may ask questions. DOE will base its decisions on all of the information available at the time of the hearing. At the conclusion of all initial oral statements, each speaker will be given an opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations. You may submit questions to be asked of any speaker. Such questions should be submitted three days before the hearing. If you wish to ask a question at the hearing, you may submit it, in writing, to the presiding officer. We will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing. We will have a transcript of the hearing made and will retain the entire record of the hearing, including the transcript, and make it available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

A draft regulatory analysis of the proposed regulations under FUA, as contemplated by Executive Order No. 12044, was published as an appendix to the Proposed Rules to Implement the Powerplant and Industrial Fuel Use Act in the Federal Register, 43 FR 53974 (November 17, 1978). In addition, a draft Environmental Impact Statement (EIS) has been prepared pursuant to the National Environmental Policy Act (NEPA). Both documents are available for review in Room B-110, 2000 M Street, N.W., Washington, D.C.

(Department of Energy Organization Act, Pub. L. 95-91; Powerplant and Industrial Fuel Use Act, Pub. L. 95-620).

In consideration of the foregoing it is proposed that a Part 508 be added

to Subchapter E of Chapter II, Title 10 of the Code of Federal Regulations, which is titled "Alternate Fuels."

Issued in Washington, D.C., on January 3, 1979.

DAVID J. BARDIN,
*Administrator,*
*Economic Regulatory*
*Administration.*

The proposed new Part 508 amends Subchapter E, Chapter II, Title 10, CFR as set forth below:

§ 508.1 Policy.

It is the intention of ERA to issue temporary public interest exemptions to existing powerplants which are subject to the prohibitions of Section 301(a)(2) or (3) of FUA and which would otherwise burn middle distillates as a primary energy source. The granting by ERA of a special temporary exemption under this Part would not relieve an existing powerplant from compliance with any pertinent rules of regulations concerning the acquisition or distribution of natural gas that are administered by the Federal Energy Regulatory Commission (FERC) or any pertinent State regulatory agency or from any public utility obligations to pertinent categories of customers. This Part pertains exclusively to a special temporary exemption from the provisions of FUA.

§ 508.2 Eligibility.

Section 311(e) of the Act provides for discretionary temporary public interest exemptions. To qualify under this special rule for a temporary public interest exemption to burn natural gas, you would be eligible under the following criteria:

(a) your existing powerplant would be:

(1) prohibited on May 8, 1979, from using natural gas as a primary energy source by Section 301(a)(2), or

(2) prohibited from using natural gas in excess of the average base year quantities allowed in Section 301(a)(3);

(b) your proposed use of natural gas as a primary energy source, to the extent that such natural gas use would be prohibited by Section 301(a)(2) or (3) of the Act, will displace middle distillate as defined in section 508.4 of this Part; and

(c) you must show that such use of natural gas would not displace coal or another alternate fuel.

§ 508.3 Duration.

ERA intends to grant, and may extend, 1 year temporary exemptions from year-to-year. In no case may such a temporary public interest exemption, as extended, exceed the maximum five year period authorized by the Act.

§ 508.4 Definitions.

(a) This subpart defines certain terms which are unique to this Part 508. Other pertinent definitions are contained in Part 500.2, which was published in the form of proposed rules in the FEDERAL REGISTER, 43 FR 53974 (November 17, 1978).

(b) Throughout this Part, the "Act" or "FUA" means the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620, November 9, 1978).

(c) For purposes of this Part, the term "middle distillate" means:

Any derivatives of petroleum including kerosene, home heating oil, range oil, stove oil, diesel fuel, and Type A (kerosene-base) aviation turbine fuel which have a fifty percent boiling point in the ASTM D86 standard distillation test falling between 371° and 700°F. Products specifically excluded from this definition are Type B (naptha-base) aviation turbine fuel, heavy fuel oils as defined in VV-F-815C or ASTM D396, grades Nos. 3, 4 and 6, intermediate fuel oils (which are blended containing No. 6 oil) and all specialty items which are solvents, lubricants, waxes and process oil.

§ 508.5 Terms and conditions; enforcement.

(a) *Terms and conditions generally.* You must comply with the terms and conditions of an exemption granted under the Act by the ERA.

(b) *Enforcement.* An exemption is subject to termination upon the violation of any of the terms and conditions of an exemption.

§ 508.6 Evidence.

To submit an adequate petition for review by ERA, you must certify to ERA that the powerplant for which the temporary exemption is requested meets the eligibility criteria set forth above in Section 508.2 of this Part. If you are requesting a temporary exemption for more than one year you must demonstrate why it would be in the public interest for ERA to grant your petition for more than 1 year.

§ 508.7 Administrative provisions.

(a) This section establishes general procedures which are unique to this special rule (Part 508). Other procedures which are applicable to this special rule are provided in Part 501, which was published in the form of proposed rules in the FEDERAL REGISTER, 43 FR 53974, (November 17, 1978), except that Subpart B of Part 501 in regard to filing fees does not apply to this special rule.

(b) *Where to submit.* You must submit your petition to the Assistant Administrator for Fuels Regulation, Economic Regulatory Administration, 2000 M Street, N.W., Washington, D.C. 20461.

(c) *When to submit.* You may submit your petition at any time after final publication of this rule.

(d) *Labeling.* You should clearly label any petition or document that you file with ERA under this Part as "Petition for Special Exemption (Natural Gas)" both on the document and on the outside of the envelope in which the document is transmitted.

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